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SESSION 1938

HOUSE OF COMMONS

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Publications

STANDING COMMITTEE

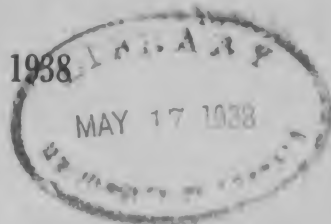
ON

# RAILWAYS, CANALS AND TELEGRAPH LINES

## MINUTES OF PROCEEDINGS AND EVIDENCE

Respecting

BILL No. 31—THE TRANSPORT ACT, 1938



No. 5

THURSDAY, MAY 12, 1938

### WITNESSES:

Mr. M. J. Patton, Executive Secretary, Canadian Automotive Transportation Association.

Mr. Lewis Duncan, K.C., Toronto, representing The Automotive Transport Association of Ontario.

Mr. J. G. Saunders, Chamber of Commerce, Hamilton, Ont.

Mr. T. Marshall, Board of Trade, Toronto, Ont.

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## MINUTES OF PROCEEDINGS

THURSDAY, May 12, 1938.

The Standing Committee on Railways, Canals and Telegraph Lines met this day at 10.30 a.m. Sir Eugène Fiset, the Deputy Chairman, presided.

*Members present:* Messrs. Barber, Bertrand (*Laurier*), Brown, Clark (*York-Sunbury*), Cochrane, Dupuis, Edwards, Elliott (*Kindersley*), Emmerson, Fiset (Sir Eugène), Gladstone, Hamilton, Hansell, Hanson, Heaps, Howden, Isnor, Johnston (*Bow River*), Lockhart, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCann, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Maybank, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Streight, Sylvestre, Wermenlinger, Young.

*In attendance:* Hon. Mr. Howe, Minister of Transport; Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners; Mr. W. J. Matthews, Law Branch, Department of Transport.

Bill No. 31, An Act to establish a Board of Transport Commissioners for Canada, with authority, in respect to transport by railways, ships and aircraft.

A correction was authorized in the evidence given on May 5, by Mr. W. E. Campbell, viz:—

Page 49, 3rd last line. Delete "point B" and substitute "point A".

*Ordered,*—That the written submission received on behalf of the Ellis Ship-  
ping Company, Limited, be printed (*see Appendix to this day's evidence*).

Mr. M. J. Patton, Executive Secretary, Canadian Automotive Transportation Association, was called and heard on behalf of that company in opposition to the bill. He suggested several amendments.

Mr. Patton retired.

Mr. Lewis Duncan, K.C., Toronto, was called. He appeared for The Automotive Transport Association of Ontario. Mr. Duncan addressed the Committee at length.

The Committee adjourned at 1 p.m. until 4 p.m. this day.

The Committee resumed at 4 p.m. Sir Eugène Fiset, the Deputy Chairman, presided.

*Members present:* Messrs. Barber, Bertrand (*Laurier*), Bonnier, Brown, Clark (*York-Sunbury*), Cochrane, Damude, Edwards, Elliott (*Kindersley*), Emmerson, Fiset (Sir Eugène), Hamilton, Hansell, Hanson, Howden, Isnor, Johnston (*Bow River*), Lockhart, MacInnis, MacKinnon (*Edmonton West*), MacNicol, McCallum, McCann, McCulloch, McIvor, McKinnon (*Kenora-Rainy River*), McNiven (*Regina City*), Maybank, Mulock, O'Neill, Parent (*Terrebonne*), Ross (*Moose Jaw*), Stevens, Stewart, Streight, Sylvestre, Wermenlinger, Young.

*In attendance:* Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners.

Mr. Lewis Duncan, K.C., was recalled for further hearing and examination.

Mr. Duncan retired.

Mr. J. G. Saunders, Chamber of Commerce, Hamilton, Ont., was called. He read a brief and was questioned thereon.

Mr. Saunders retired.

At the request of Mr. Ross (*Moose Jaw*),

*Ordered*,—That the following correction be made in the printed record, viz:—

Page 106, 12th last line. Delete “carload” and substitute “train-load”.

Mr. T. Marshall, Board of Trade, Toronto, Ont., was called. He read a short brief and made supplementary remarks.

Mr. Marshall retired.

In the absence of a representative of the Montreal Board of Trade, invited to attend to-day,

*Ordered*,—That the brief submitted be printed.

The Committee adjourned until to-morrow, May 13, at 10.30 a.m.

JOHN T. DUN,  
*Clerk of the Committee.*

## MINUTES OF EVIDENCE

HOUSE OF COMMONS, ROOM 277,

May 12, 1938.

The Select Standing Committee on Railways, Canals and Telegraphs, met at 10.30 o'clock. Sir Eugène Fiset, the Deputy Chairman, presided.

The DEPUTY CHAIRMAN: Gentlemen, a letter has been received from Mr. W. E. Campbell, Chief Traffic Officer, Board of Railway Commissioners for Canada, requesting that an error in the printed proceedings be corrected. The letter reads as follows:—

In No. 2 of Minutes of Proceedings and Evidence respecting Bill No. 31, the Transport Act, at page 49, third line from the bottom of the page which now reads "point B," this should read "point A."

That correction will be made.

A letter has also been received from Messrs. Beauregard, Phillimore and St. Germain, of Montreal, requesting that the letter sent by that firm, dated 25th April, on behalf of their clients, The Ellis Shipping Company Limited, be read to the committee. The Ellis Shipping Company Limited does not wish to make any oral representation. (*See Appendix to this day's evidence.*) Have they a representative here?

Gentlemen, Mr. M. J. Patton is here representing The Canadian Automotive Transportation Association.

M. J. PATTON, Executive Secretary, Canadian Automotive Transportation Association, called.

*Mr. Chairman and members of the committee:*

I appear before you for the Canadian Automotive Transportation Association representing motor transport operators for hire throughout Canada. Our Association, I should explain is a federation of the various provincial commercial motor transport associations. Although highway motor transportation is not specifically mentioned in the Bill now before you, our members as competitors of other forms of transportation which do come under the Bill are very vitally and adversely affected by certain of its provisions, and we therefore ask your indulgence in listening to our views. Our objections are confined wholly to Part V of the Bill, "Agreed charges." I do not propose to go into the details of the application of agreed charges to motor transport, but wish to deal only with certain of the more outstanding features involved. One of our member organizations, the Ontario Automotive Transport Association will appear before you shortly through counsel assisted by officials and transport operators, and will, I expect, take up as well the detailed effects of these charges on motor carriers.

The Canadian Automotive Transportation Association and its provincial member associations have been striving for some years to have put into effect in the various provinces a measure of rate regulation somewhat comparable to that which the railways, after many years of rate cutting, rebating and rate confusion, attained in 1904 through the establishment of the Board of Railway Commissioners; and I think I may

say we have made fair progress in that direction. You must remember that public commercial motor transport is a young industry—only about 10 years old, even in those provinces where it is most advanced. In Ontario, where it has reached its highest state of development, it was not of sufficient size to justify the government issuing public commercial vehicle licences till 1928. At the present time in all the provinces, except Prince Edward Island, certificates of necessity and convenience must be obtained from a public authority before any licences to use the roads are issued, and most of the provinces have made provision in their laws for the filing, posting and regulation of rates, although in some the machinery has not yet been set up to administer it. There are fairly elaborate regulations respecting such things as fitness of vehicles, bills of lading, insurance, working hours and continuity of service. It is entirely inaccurate to say of highway transport as Mr. Rand said in his evidence that "they have scarcely a fetter or a restriction upon unlimited freedom of action," or as Mr. Walker said, they "are not regulated in any measure whatsoever." On the contrary, they are very much regulated, as anyone knows who takes the trouble to find out.

British Columbia requires the filing of tariffs and the observance of tolls so filed. Changes must be made in an orderly manner after the giving of due notice. In this province a full-time administrator, assisted by an advisory board has been appointed, and I am informed by the Secretary of our member organization there that the administrator has plans in mind to bring about a better general enforcement of the Highway Act, including the filing of rates by districts, their approval and enforcement.

In the three prairie provinces there are highway traffic boards; the filing of tariffs is required and the boards actually set the schedules of rates based on the Canadian Freight Classification. In New Brunswick a Motor Carrier Board has jurisdiction and has established a classification and a class rate scale for less than truckload shipments. Full loads are provided for at 10 per cent and 20 per cent less than the class rates specified.

*By Mr. Isnor:*

Q. How long have they been in effect in New Brunswick and Nova Scotia?

—A. I do not think they have been in effect very long.

Nova Scotia has similar legislation to New Brunswick but has not yet issued the necessary regulations to deal with rate matters. Quebec has legislation of a comprehensive character authorizing the issuance of rate regulation by its Public Service Board, but these regulations have not yet been issued. In Ontario there is provision in the Commercial Vehicle Act for making regulations for the publication, filing and payment of tolls but the necessary order in council has not yet been passed to make them effective. As you doubtless know, an exhaustive investigation of motor carriers is in progress by a Royal Commission in Ontario and much of the evidence given was favourable to the setting up of a tribunal to regulate rates. Our Ontario member associations strongly pressed for a recommendation to appoint such a body.

So you will see a framework already exists in the laws and regulations of the provinces for the filing and regulating of rates, and where such is not actually in effect, encouraging progress has been made towards it. This Association has always striven for rate regulation and we have been much encouraged with the progress made until these agreed charges were proposed. If they are approved, the Provincial Governments, who have jurisdiction over the regulation of highway transportation rates, cannot be expected to continue their present rate regulatory measures or to put in effect further measures now in contemplation.

[Mr. M. J. Patton.]

*By Mr. Young:*

Q. Why?—A. Because it would affect their revenues.

Neither would it be reasonable to expect them to stand idly by and see the substantial revenues they now obtain from public commercial trucks largely disappear without using whatever means lie in their power to even things up with the railways. The adoption of agreed charges would assuredly nullify the decided progress already made toward stabilization and would throw all rates back into the maelstrom of unbridled competition and undue discrimination which took the railways over 60 years to get out of. All we have to do is to look back at conditions in the railway rate field prior to 1904 as portrayed in Professor McLean's report to realize what things were like then. We have been trying to raise ourselves up to the plane of the railways as regards rate regulation; the railways, through agreed charges, now propose to lower themselves to the plane above which we have been striving to rise. The proposal to legalize agreed charges is a reversion to the law of the jungle in transportation competition, harmful alike to all forms of transportation as well as to shippers. The shipping public will, of course, be one of the chief sufferers as was pointed out in the protests of such of their representatives as have already given evidence here.

Confusion, cut-throat competition and undue discrimination there undoubtedly will be. And what do we get in compensation for that condition of affairs? The Minister and spokesmen for the railways have indicated that the railways hope to regain the traffic they have lost to public commercial trucks. There is no doubt that the two big railways with their 4.5 billions of capitalization behind them can easily cut rates far below cost and keep them there long enough to put the trucking companies out of business if they wish to use agreed charges in a predatory way. Even the largest of the trucking companies have only a few hundred thousand dollars capital and the great majority of the operators have but a fraction of that. None of them can draw on the public purse to meet its deficits as one of our great railways does. They cannot afford to operate for any extended period of time at a loss. The railways can and do. There is no doubt that the railways by utilizing their large capital resources could, if they used the powers given them by this Bill, concentrate on cutting rates so far below cost of service first on one highway transport route then on another that they could put the public service highway transport system out of business. And this could be done without the affected truckers having even the right under this Bill to appear in protest before the Transport Board. It is our considered opinion, and we cannot express it too emphatically, that the Bill should make provision against predatory rate cutting of this kind on the part of the railways by providing that no agreed charge shall be made at less than the cost to the railways of the service, and such cost of service should include not only the out-of-pocket expenses for carrying the goods but overhead expenses as well. In other words, railways that depend on public funds to make good their deficits should not be allowed to operate at a loss under agreed charges in order to put a competitor out of business.

Let us examine just how much the railways would gain if they chose to exercise to the full the powers this Bill undoubtedly gives them. There are in Canada, according to the Dominion Bureau of Statistics' report for 1936, a total of 231,565 motor trucks and trailers of all kinds, of which only 21,155 or less than 10 per cent, are public commercial vehicles. And 21,000 trucks, especially when about one-third of them are farm trucks, can carry only a very small percentage of freight that the railways carry. It is difficult to get statistics as to what these public commercial trucks do carry in a year, but in 1931 Mr. Bernard Allen, Economist of the Canadian National Railway estimated that public carrier trucks carried 1,400,000 tons or about 1.2 per cent of which the railways carried.



*By Hon. Mr. Stevens:*

Q. That is in 1931?—A. 1931.

It may have increased since then, but even if it has doubled or tripled, it is but a pitifully small fraction of the 69,000,000 tons the railways moved in 1935. Even if they got all this traffic would it be worth while throwing overboard our system of railway rate regulation attained after so many years of effort and abandoning the undoubted progress already made in the regulation of trucking rates?

But even if by means of the predatory use of agreed charges every public commercial carrier in Canada was put off the road, the railways would not hold the business gained. This is the experience in Great Britain and other countries where repressive measures have been placed on public commercial carriers. The public will not forego the advantages of motor transport, with its flexibility, its convenience and its economies. If they are denied the use of public trucks, they will buy their own trucks wherever they can. The railways will not get the business. It will still move over the highways; it will merely be shifted from the public motor vehicle to the private motor vehicle. The chief sufferer will be the small business firm that hasn't sufficient volume of traffic to justify purchasing trucks of its own. The large firm with heavy tonnage to move simply puts on its own fleet of trucks and by its superior service and lower cost takes business away from the little fellow. Thus would "agreed charges" give to those who have and take away from those who have not.

This is exactly what is happening in Great Britain now. Under a policy of repression of highway carriers in favour of railways, the private, or "ancillary" motor carrier as he is called there, is increasing in numbers whilst the public motor carrier is on the decline, despite a boom condition in general trade. Since September, 1935, when statistics first became available, to June, 1937, the number of public carrier licensed freight vehicles in Great Britain has declined by 10,864, or 6.98 per cent, whilst the number of private carrier freight vehicles has increased by 58,494, or 19.25 per cent. That, it seems to me, carries a very significant lesson for us in Canada—public carriers down 7 per cent; private carriers up 19 per cent, in less than two years.

I contend that the same thing would happen in Canada. In proportion as you submerged your public motor carriers the private carriers would increase and the railways would still be left with the same old problem of motor competition on their hands. The way to handle the situation is not by making it easy for railway competition to cripple public service transport that is so essential to the small business man, but to regulate truck rates by provincial boards the same as railway rates are now regulated by the Railway Board. I submit that that can be done, and will be done, and will be done a lot faster if the railways would lend support to the trucking interests in their efforts to accomplish it.

Agreed charges also contain an element of unfairness to the public. It is generally admitted that the sphere in which the railway is most efficient is in the carriage of bulk goods over long distances, whilst the motor vehicle excels in short and moderate hauls of less-than-carload freight. It should be conceded as a matter of public policy that the public is entitled to the advantages which are peculiar to each form of transportation. Agreed charges are directly contrary to this principle in that they tend to divert less-than-carload traffic from the agency by nature best adapted to handle it cheaply and expeditiously to the one that is less efficient. Thus they prevent proper division of function as between the various forms of transportation. This is accentuated by the outmoded railway rate making principle of charging according to what the service is worth to the shipper, or what the traffic will bear. This works under monopoly, but when competing forms of transportation exist, the tendency, as inevitable as the tendency of water to run down hill, is to base rates on what it costs to

[Mr. M. J. Patton.]

perform the service. When cost of service is allowed free play in determining rates, the competing forms of transportation naturally arrange themselves in the spheres in which they are best suited to function and the public reaps the benefit. But if, in a field where competing forms of transportation exist, such a device as agreed charges induces railways to carry traffic they are not best suited to carry at less than cost, either the other forms of traffic they are well suited to carry must bear the loss in the form of higher freight rates or the shareholders must.

Thus does an artificially based rate system make for unfairness, not only endangering the stability of the industrial structure but also preventing proper division of function to the benefits of which the public is entitled.

In short, agreed charges would bring in their train numerous disadvantages and it is difficult to see what advantage they would bring to the railways other than of a most transitory character. They would undoubtedly usher in an era of cut-throat competition, and rate uncertainty for the shipping public, while any diminution of public service truck competition they might gain for the railways would speedily be overshadowed by the growth of private truck competition, as has been the case in Great Britain. They would be prejudicial to the interests of the small shipper as against the large corporations, and would, further, operate against the co-ordination of the various forms of transportation, each according to the function it is best adapted to perform. The disadvantages far outweigh any small merits they possess and we submit that in the general public interest all reference to them should be deleted from this Bill.

Now, Mr. Chairman, that concludes what I have to say, except that I have a number of suggestions to make with regard to amendments to the various clauses. If you would like, I can put these on the record now, or hand them in to you to be included in the record.

*By Hon. Mr. Stevens:*

Q. Mr. Chairman, before the witness goes into the details of these amendments, I would like to ask him one broad, general question. I understand that Mr. Patton represents the Canadian Automotive Transportation Association which, I take it, represents all of the affected interests in the automotive industry?—A. It represents motor transport for hire, Mr. Stevens, throughout Canada.

Q. Would your association be prepared to discuss or enter into negotiations with the railway companies to abandon the long-distance competitive hauls, such as, we will say, Windsor to Montreal, or Toronto to Montreal—I am just using those as illustrations—and co-operate in the building up of a feeder system for the railways; in other words, compensate any loss by abandonment of the long hauls by increasing the feeder system to the railways? I mean, would your association sit down with the railways seriously to work out that problem?—A. I have not been instructed by my association on that subject, but, broadly speaking, I think they would. There might be a difference of opinion as to what would constitute the dividing line between the two fields, but there is the possibility that through discussion that might be ironed out.

Q. I would like to ask the witness, then, if he would consult with his association and at a later date advise the committee definitely on that point?—A. I would be glad to do so.

*By Mr. MacNicol:*

Q. Mr. Chairman, did I understand the witness to say that in the early part of this century there apparently were secret agreed charges, or rates, made between companies and railways and that it took some length of time to raise the condition of carrying freight from that point to where it is at the present

time? And did I also understand him to say that if the agreed charges were allowed under this bill, a return would be made to those chaotic conditions?—A. Yes, that in substance is my submission, sir.

Q. Were there secret agreements entered into in the early days?—A. You mean between shippers and railways?

Q. Yes.—A. It is pretty hard to put your finger on specific cases, but I think the outstanding example is the case of the oil industry.

*By Mr. Edwards:*

Q. The what?—A. The oil industry.

Q. Is that the Rockefeller-Pennsylvania?—A. Exactly.

*By Hon. Mr. Howe:*

Q. This bill would give the railways no power which your industry does not have to-day, would it?—A. Legally and technically, no; actually, yes. The tremendous capital resources they have, as I pointed out in my submission, would be a very decided advantage.

Q. When you appeared last year you had one request to make, according to your evidence; that was to be left out of the bill. We thought we had satisfied you fairly well and had met your request.—A. I do not just understand you, Mr. Howe, as to what was to be left out of the bill.

Q. All reference to motor transport.—A. There, again, there is a distinction without a difference. I said in my opening paragraphs, while the motor transport is not specifically mentioned in the bill, this bill does affect it.

Q. When you appeared last year you just had one request, as I read your evidence here, and that was to be left out of the bill. We thought we satisfied you fairly well when we met your request?—A. I do not just understand you, Mr. Howe; what was to be left out of the bill?

Q. All reference to motor transport?—A. There again there is a distinction without a difference. As I said in my opening paragraph, while motor transport is not specifically mentioned in the bill this bill does affect it; it affects the rate at which the motor transport companies compete and in that way it directly affects them.

Hon. Mr. HOWE: This is a memorandum I have of your evidence: Mr. Patton closed his submission by stating that: "In conclusion, we submit likewise that Part 4, for the reasons given, as well as all other references to highway transport, be deleted from the Bill."

*By Mr. Howden:*

Q. Would you not think that the highway transport still has the edge on the railways in the matter of the advantages we would be disposed to give to the railways?—A. Oh no, I would not agree to that. It is quite possible to put into effect in the present measure rates that would cripple highway transportation.

Q. But the railways could not possibly provide short haul service in competition with highway transport?—A. They do, and they do it at less than cost.

Q. I mean to say they would have to do it at very much less than cost?—A. They would have to, and they do. If you have read the evidence before the Ontario royal commission which has just been sitting I think you would have been convinced of that.

Mr. MACNICOL: Might I interrupt you there?

Mr. HOWDEN: I am through for the time being. After you.

[Mr. M. J. Patton.]

*By Mr. MacNicol:*

Q. Perhaps witness has already given what I am going to ask; I was going to ask the amount of tonnage or freight carried by trucks, the number of men employed, the number of men engaged in maintenance in the whole set-up, both with respect to the province of Ontario and throughout Canada.—A. As I said before, there is no existing record of the actual tonnage carried. We have an estimate which I mentioned; and we know the number of trucks. As to those employed, it came out in the evidence before the Ontario royal commission recently that one of the largest truckers operating across Ontario had 2.4 employees for every motor unit employed. That might give you some idea of the amount of employment given. There is of course the garage system, the repair system, and so on in addition to that. It is very hard to give.

*By Mr. Hanson:*

Q. Could you give us approximately the number of men employed in the motor transport industry throughout the Dominion of Canada? I realize your difficulty.—A. It is very difficult. I haven't got the figures here. I will be very glad to furnish them later, I cannot at the moment. You have not only the transportation industry itself, but you have the gasoline business, the garage and repair business, the manufacture of rubber tires—it ramifies through the whole industrial structure.

*By Mr. Johnston:*

Q. The witness mentioned the railways competing with trucks, and that in some instances they were transporting goods below costs; to what goods has he reference, was it oil? What goods do they transport below cost?—A. Well, numerous instances came out before the Ontario royal commission respecting that.

Q. Can you ascertain what the cost is to the railways?—A. That is the trouble, the railways claim they have difficulty. No doubt they have. They have a theory in which they say it profits them to carry goods under certain conditions at very low rates. Take, for instance, a case where they have their trains nearly filled up, they can put in a few more tons at what they say is practically no cost. We contend that that is the wrong system, that you have got to spread the costs over the total tonnage carried.

*By Mr. Edwards:*

Q. Are you prepared to say that agreed charges do not obtain at the present time in the trucking companies?—A. Well, there are contracts, usually extending over a year, which do obtain at the present time. But there are very few of them.

*By Mr. Young:*

Q. But, identical with this?—A. In Ontario where we have perhaps better statistics than in the other provinces we have thirty per cent of the public motor vehicles in the trade; there are 3,782 carriers out of a total of 6,892; that is 5.5 per cent of the total.

Q. Perhaps that is not 5.5 per cent of the volume?—A. They do carry goods at implied contracts, usually arranged on the basis of one year with large concerns.

*By Mr. Edwards:*

Q. He means large trucks taking the entire output from factories under practically agreed charges?—A. I do not believe there are many. The Ontario Automotive Transport Association who are to follow me could probably give you better information on that than I could.

Q. Are there a few of them?—A. Oh, yes.

*By Mr. Howden:*

Q. Would you be disposed to think that in as much as agreed charges are subject to the Board of Railway Commissioners the board would not be disposed to permit the railways to carry materials at less than cost, and because of that you are well safeguarded?—A. They are doing that now. And then, of course, this bill says they have to be carried under conditions that are substantially the same.

Q. I was always under the impression that it was part of the function of the Board of Railway Commissioners to see that the railways did not carry merchandise at a loss.—A. No, I do not think that has been the actual practice.

*By Mr. Heaps:*

Q. I would like to ask Mr. Patton a question or two, I would like to start with a question in regard to wages. You did not make any reference to wage regulation. Would the witness be good enough to tell the committee whether wage regulations are in effect?—A. In Ontario there has just recently been completed an agreement between the trucking industry and the drivers and other labour whereby practically all of the leading trucking companies have entered into an agreement to pay their drivers from forty-five cents down to forty cents or thirty-five cents, depending on the kind of units handled, experience and the population of the places in which they operate.

Q. That is as far as the province of Ontario is concerned?—A. Yes, and 30 per cent of the total commercial trucking business of Canada is done in Ontario.

Q. Did you come to that regulation or agreement between?—A. It is a regulatory agreement.

Q. May I just go a point further than that; in what other provinces have they agreements between employers and employees?—A. I do not know that I can answer that fully, but I understand that the Male Minimum Wage Act in British Columbia applies—order No. 26: Section 2.

That the minimum wage for every employee and for every male person under twenty-one (21) years of age in the transportation industry hereinafter described shall be as follows:—

1. Operators of Motor-vehicles of 2,000 pounds net weight or over, as specified on the Motor-vehicle licence, exclusive of those specified in Section 7 hereof.

(a) Not less than the sum of forty cents (40 cents) per hour when their week consists of not less than forty (40) hours and not more than fifty (50) hours.

(b) Not less than the sum of forty-five cents (45 cents) per hour when their week consists of less than forty (40) hours.

(c) Not less than the sum of sixty cents (60 cents) per hour for every hour in excess of fifty (50) hours per week and up to and including fifty-four (54) hours per week.

Q. That is about the only place where they have minimum wage regulation for male employees. But take the other provinces, is there anything there which represents the wages of truck drivers?—A. I do not know that I have any information of that kind. I fear I haven't got it.

Q. Can you give us something about the hours of employment of these truck drivers and their assistants?—A. The regulations in Ontario provide for ten hours a day.

[Mr. M. J. Patton.]

Q. And, six days a week?—A. Six days a week.

Q. What about the other provinces?—A. Well, they vary. I have in my hand here information about Manitoba.

No driver of a public service vehicle or commercial truck including the owner of the vehicle or truck who is also the driver thereof, shall be on duty in driving the truck or vehicle more than nine hours, nor in any capacity more than twelve hours in any twenty-four consecutive hours, nor on duty more than six days in any one week; but this subsection shall not apply in the case of an emergency due to the breakdown of the vehicle or truck.

Q. There has been no effort made by the owners of trucks to regulate hours as has been done there?—A. Oh yes, definite steps in that direction have been taken. Trucking organizations are anxious and eager to have settled hours and wages.

Q. Don't you think it is a little dangerous for people who use the public highway to have the man driving a fast truck ten hours a day?—A. Well, that is a matter of opinion.

Q. Well, I ask your opinion?—A. No, I do not think it is.

*By Mr. Edwards:*

Q. Do they have two men on those trucks, or one?—A. Yes.

Q. Two men?—A. Very often there are two men.

*By Mr. McKinnon (Kenora-Rainy River):*

Q. Do they have driver examinations in the provinces?—A. Some of the provinces do, Ontario does not. That is a feature which came out prominently in the Ontario investigation.

*By Mr. Heaps:*

Q. With reference to the question of competition, you do not approve of the railways giving competition to the trucks apparently?—A. We cannot prevent that at all, but the competition should be on an equal basis. The railways in effect say, we cannot step down to the basis of the trucks on these agreed charges. The trucks say, we think we should step up to the basis of the regulations of the railways which they now enjoy under the Act. That is the difference.

Q. You yourself in answer to a question by Mr. Edwards said that the trucking companies did have in effect agreed charges with certain corporations or individuals?—A. Yes, I think there are a few instances of that, but very few.

Q. But apparently you would deny the same right to the railways?—A. Oh no; it has got to be under regulation.

Q. Would you deny to the railways the same right you assume for yourself?—A. No.

Q. Then, you would not oppose the agreed charges between railways and shippers?—A. No. We say that is the wrong way to go about it.

Q. You would not oppose it?—A. We oppose it in the form in which it is indicated.

*By Mr. Young:*

Q. In what way would you go about it?—A. We would have regulatory boards for the trucking industry. These would have to be provincial boards, because under the provisions of the British North America Act transportation regulation is the function of the provinces.



*By Mr. Edwards:*

Q. How could you do that with 8 or 9 provincial governments controlling? How are you going to have an equal rate throughout the provinces?—A. I do not think you will get an equal rate throughout the provinces.

Q. The haulage would be arranged on different bases?—A. There would be two rates. There would have to be stabilization through regulation. We do not think we should have exactly the same rates under different conditions.

Q. You made the statement, if I understood you correctly, that the railways could reduce their rates down to the point where they would close the trucking companies out of business?—A. Yes.

Q. Well, all the trucking company has to do would be to tie up its trucks, isn't it?—A. He has got his investment.

Q. He would certainly have to lay them off. At the same time, that could not go on forever. It would be a very serious thing. However, that is not up to you I suppose?—A. I see.

Q. You would not consider that the railway companies would be foolish enough to do that thing in the first place, would you?—A. I do not know how far they would be prepared to go in that direction.

*By Mr. Bertrand:*

Q. You have the power to reduce rates?—A. We have, but we cannot do it for very long without going out of business.

*By Mr. Hansell:*

Q. Did you not say that the traffic boards prevent fixed rates in some cases?—A. Yes, I said they did.

Q. Is that generally so?—A. That is not generally so, yet.

*By Mr. Heaps:*

Q. When you speak about rate regulation, who regulates your rate the first time?—A. In the prairie provinces I believe they have boards that regulate rates and in some cases set them.

*By Mr. Hansell:*

Q. Do they regulate hours of labour and things of that kind?—A. Yes, there is some regulation regarding hours of labour—it is 9 to 10 hours a day usually.

Q. It is only through the Minimum Wage Act that they step in?—A. I think that is the usual method.

*By Mr. Edwards:*

Q. What proportion of the business, Mr. Patton—you say 30 per cent in Ontario—what proportion of the total business is taken up by the two central provinces, Ontario and Quebec?—A. Of the trucking hauled?

Q. Yes?—A. I could not tell you that. The two central provinces, Ontario and Quebec, do 60 per cent of the public commercial trucking business in operation.

Q. It would be fair to say that they do about 60 per cent of the business?—A. Oh, no, very much less.

Q. I mean 60 per cent of the total business done by trucks?—A. I think that would be a pretty fair assumption on the basis of the number of trucks registered in these two provinces.

[Mr. M. J. Patton.]

*By Mr. Hansell:*

Q. Is there any difference between your organization under the Act in that truck owners—I do not mean farmers, I mean the man who goes into the trucking business with perhaps one or two trucks—he does not require any particular organization for that does he?—A. He might be a member of our organization.

Q. It is possible for him to operate independently and cut rates?—A. Oh, yes, it is possible.

Q. If there are not certain fixed rates applied?—A. Yes, that is true.

*By Mr. McIvor:*

Q. Is there any restriction being placed upon him by organizations such as yours?—A. If there were provincial regulations he would come under them just the same as members of the truck organizations would.

Q. Would not this bill be a help along that line?—A. You mean, to make the independent truckers join the organizations; is that your idea, that it would help in that direction?

*By Mr. Hanson:*

Q. It would help to regulate the rates for each one, whether it is the railway competing or the truck?—A. I do not think it would regulate it at all; I think they would just start cutting rates until they got them to the lowest possible figure at which they could exist, and in many cases to where they could not exist.

*By Mr. McKinnon (Kenora-Rainy River):*

Q. Are the truck operators not doing that very thing among themselves at the present time, cutting rates?—A. Oh, they cut rates, yes.

Q. Why not give the railways the same opportunity of competing?—A. Because I do not think that is the right way of going about it. You should try to regulate the truck rates instead.

*By Mr. Bertrand:*

Q. When you talk of regulation, do you know that we can do it in so far as the railway carriers are concerned?—A. I do not think you can do it on the trucks yet, but we are making distinct progress in that direction.

*By Mr. Lockhart:*

Q. Have there been any formal or informal discussions between the federal authorities and your association tending to correct the situation which now exists?—A. At any time, do you mean?

Q. Yes, at any time?—A. Yes, there have been a number, I think three—I am not sure of that—provincial-dominion conferences in that respect.

Q. Do you not feel that further discussions of that sort would probably cure the situation, or at least help to cure it?—A. I think they would.

Q. And you feel that your association would not be averse to taking part in such conferences?—A. We would be very pleased to.

Mr. LOCKHART: Thank you very much.

*By Mr. Heaps:*

Q. You are the secretary of the Canadian association, are you not?—A. Yes.

Q. It is a federal organization?—A. Yes.

Q. You represent the federal organization here?—A. Yes.

Q. You think it is desirable to have an organization built on that basis?—

A. On what?



Q. You think it desirable to have an organization built on a federal basis?—  
A. I think it is very necessary to have it built on a federal basis.

Q. Do you think it is desirable for one central body to have one central office to control the Automobile Association?—A. It is desirable in connection with matters like this where there is a federal aspect to them.

Q. Would not the same thing apply to the controlling of rates, and so on?—  
A. Not so much so, no.

Mr. EDWARDS: Why?

*By Mr. Johnston:*

Q. What is the highest licence fee paid by trucks to-day in the province of Ontario?—A. I do not know that I could give the honourable member that information. The Ontario Motor Transport Association are coming on right after me and they will undoubtedly be able to give you that information.

Q. Some of the trucks, I understand, would have to pay as high as \$500?—  
A. Oh yes, I think possibly some of them pay more than that. I would not like to give that off-hand, but I should be glad to file it with the committee.

Q. Would they pay as high as \$700 in some cases?—A. I should think some of them would pay that much, yes; the large trucks. A number of them operate outside of the province of Ontario and that brings the fees up considerably.

Q. Who did you say could give us that information?—A. The Ontario Automotive Transport Association.

The CHAIRMAN: Mr. Duncan represents them, and he will appear in a few minutes.

*By Mr. Bertrand:*

Q. You do not know of any kind of superannuation for the employees of operators of trucks?—A. No, I do not.

*By Mr. Howden:*

Q. The substance of your contention is that you cannot possibly compete; that the trucking business have not sufficient resources to enable them to compete with the railways; that is your submission?—A. That is our point.

*By Mr. Isnor:*

Q. I would like the witness to tell us this: His organization is a Dominion-wide association composed I understand of firms in the various provinces. I do not think the number of members making up the association has been given; will witness be good enough to tell us how many members there are in his organization, how many in each of the various provinces. Also, while I am on my feet there is another question: Would he enlarge upon the reference he made with regard to rebates given by the railways to certain shippers. He made a statement about rebates and I would like to have that cleared up?—  
A. So far as rebates are concerned, I referred to them as existing in the old days, in the early railroad days.

Q. They do not exist at the present time?—A. I do not know; I do not think they exist at the present time at all.

*By Mr. O'Neill:*

Q. Do they exist so far as the automobile traffic is concerned?—A. Not to my knowledge. You (Mr. Isnor) asked about the number of our members. We have very few members because our membership is made up of the several provincial associations.

[Mr. M. J. Patton.]

*By Mr. Isnor:*

Q. How many of them are there?—A. There are 8.

Q. What provinces are represented?—A. All except Prince Edward Island.

Q. Would you give us their numbers by provinces?—A. I haven't got the figures here. I can give you approximately how many. There are about 1,100 members of the various provincial organizations. The Ontario association is here now and can speak for themselves. I think they have about 600 members.

Q. Yes. We are going to have the case presented for the Ontario organization by their representative. I understood that you were representing an organization which was Dominion-wide and I am anxious to hear about some of the other provinces, if you have them?—A. You mean, the membership of the associations—the provincial organizations?

Q. Yes, I understand they are 8 in number.—A. Yes, they are 8 in number.

*By Mr. Hansell:*

Q. When you say 1,100 members, you mean 1,100 trucking concerns?—A. Truck operators.

Q. Not individual trucks?—A. No, not individual trucks.

Q. There would be more than that number of trucks, of course?—A. Yes.

*By Mr. MacKinnon (Edmonton West):*

Q. Have you any information regarding Alberta? I understand there are two organizations there. Can you give us the number of their membership?—A. No, I have not got that.

The DEPUTY CHAIRMAN: Well, gentlemen, in addition to the brief read by Mr. Patton he has drafted certain amendments to the bill. I think it would be advisable that they should go onto the record.

Mr. HOWDEN: I would suggest that they be read now.

The WITNESS: I will read them.

First, with regard to the "Interpretation" portion, the definition of the word "carrier" and of the word "shipper," section 2, sub-section (1) (d) and (i):

Public commercial motor transport operators are vitally affected by the bill, yet they are excluded from being heard by the Board because of the narrow definition of these terms. We suggest the insertion on page 1, after the word "applies," in line 16, of the words, "and any person transporting goods for hire or reward by motor vehicle;"

The federal authority has no jurisdiction over motor vehicles. All this does is to give motor transport the right to be heard before the Transport Board in respect to any application which may be pertinent.

The DEPUTY CHAIRMAN: It also means that you are bringing them within the provisions of the bill.

The WITNESS: Yes, to that extent.

And the insertion on page 2 after the word "applies," end of line 8, of the words, "or by means of motor vehicles or by means of a carrier operating motor vehicles."

As I read this bill now a man who uses neither a public commercial highway transport nor the railways, who does his own hauling exclusively, is not permitted to be heard in a case before this board.

*By Mr. Edwards:*

Q. How are you going to bring a provincial organization under the jurisdiction of this federal board?—A. A motor vehicle, I would say, is not a provincial organization; nor, a motor vehicle owner.

*By Mr. Hanson:*

Q. Last year when he appeared before us he wanted highway transport matters left out of this bill, now he wants them put in; is not that a contradiction in his position; are you not contradicting yourself?—A. No, I am not. I explained that before. While technically you may have cut out reference to motor vehicles, in reality they are still in there.

The DEPUTY CHAIRMAN: We shall deal with the amendment when we are considering the rest of the bill.

The WITNESS: Next, in Part V, page 12, line 10: the "object to the secured" should be stated, should be in the public interest and should tend to develop the complementary rather than the competitive functions of the different forms of transport in harmony with the intention expressed in section 5 (1) (b) of the bill. We, therefore, suggest that lines 8 to 13, inclusive, on page 12 be struck out and the following substituted therefor:—

Provided, that any such agreed charge shall require the approval of the Board, and the Board shall not approve such charge unless the object to be secured by the making of the agreement is stated, unless, in its opinion, such object is in the public interest, and if in its opinion, said object can, having regard to all the circumstances, adequately be secured by means of a special or competitive tariff of tolls under the Railway Act or this Act.

This section mentions "the object to be secured," but does not state what it is we are suggesting.

*By Mr. Heaps:*

Q. Would you think that applied to trucks as well?—A. Well, that would apply to trucks if they came under this.

Q. How could we do that?—A. That would be up to the Transport Board.

The DEPUTY CHAIRMAN: That is the truck as a unit, not as an association.

The WITNESS: The bill, in our opinion, does not provide for sufficient publicity in respect to applications for agreed charges. The method of giving notice of application should be specified in the bill, and we suggest that all words after the word "given" in line 17, page 12, be struck out and that there be inserted in their stead the words "by the insertion of such notice twice in a daily newspaper published in or near the place of residence of the applicant, and such notice shall contain a fair and comprehensive summary of the proposed agreement."

We think it inadvisable to approve an agreed charge without restriction of time and suggest that the words "or without restriction of time" in line 20, page 12, be struck out and that there be substituted therefor the words "not exceeding one year." Similarly the words "or without restriction of time," in line 11, page 13, should be struck out and the words "not exceeding one year" be substituted for them. Line 21, page 13, also, to be deleted. For the words "one year," line 28, page 13, substitute the words "six months."

*By Mr. Bertrand:*

Q. Why six months?

Mr. JOHNSTON: While we have been waiting, a question has arisen in my mind in regard to the regulation of traffic within the provinces. Perhaps the minister could answer this question: Have the provinces the sole right to regulate the traffic within the provinces?

[Mr. M. J. Patton.]

Hon. Mr. HOWE: Highway traffic, yes.

Mr. JOHNSTON: Then how could the federal government set rates for transportation within the provinces?

Hon. Mr. HOWE: Railway traffic is a federal matter; air traffic is a federal matter. It has been so determined by the courts.

Mr. HANSELL: Then how could the federal government have anything to do with the setting of truck rates?

Hon. Mr. HOWE: It could not, except crossing provincial boundaries or crossing dominion boundaries. Those are the only places.

The WITNESS: The honourable member asks why we suggest six months be inserted in line 28, page 13, instead of "one year." In the working out of any agreement, I think six months would give sufficient experience to enable shippers or carriers to determine whether they want to approve of it or not, instead of leaving it for a year.

After line 10, page 14, add the words, "Provided however, that in computing the net revenue for the purpose of this subsection the cost of carrying the goods shall be taken to include all overhead, as well as all operating, expenses." In line 22, page 14, after the word "rail" insert the words "motor vehicle."

To insure the comparability of rates we think a clause should be inserted in the bill requiring all rates to be quoted on the basis of weight of goods.

*By Mr. Parent:*

Q. Will you kindly explain that last part?—A. Well, there have been instances in the operation of agreed charges in England where a railway quoted an agreed rate under which competing shippers and competing transportation organizations could not tell how much per hundred pounds the shipper was paying the railway for the carriage of his freight. In the case of Woolworths Limited, which I have particularly in mind, the railways in England quoted them an agreed charge of  $4\frac{1}{2}$  per cent of what they paid for their goods, for carrying them. Now, no other shipper or competing carrier could tell how much per hundred pounds Woolworths were paying for its hardware items or its drug items, and so on; and I think it would be advisable, if this measure does go through as it stands—and we hope it will not—that some provision should be made whereby the quotation of rates under agreed charges would be shown as so much per hundred pounds.

*By Mr. Johnston:*

Q. Could the trucks estimate that charge for a hundred pounds?—A. No, they could not. The only people who could estimate it would be the railways or the shippers.

*By Mr. O'Neill:*

Q. Mr. Chairman, Mr. Patton has made certain suggestions to the effect that motor transport would not have an opportunity to be heard before the board on any of these agreed charges, and he has made suggestions that the word "motor" be included in some of these lines in Part 5. Now, would the motor transport be in favour of having the words "motor transport" added to line 33 on page 2? There it says, "'transport' means the transport of goods or packages whether by air, by water or by rail"; would you be prepared to have the words inserted "or by motor transport"?—A. I think it should be in there. That is one case where I overlooked it.

Q. Would you be prepared to have it put in there?—A. Well, I would not like to give an answer to that question until I had considered it a little further, or until I had considered all the implications.

Q. You should be able to give an answer to that when you are suggesting all these other amendments. Before we could possibly consider your representations we would have to know whether you would be prepared to do that or not.—

A. We want to have motor transport given the right to appear before the board.

Q. In Part 5, you know you are given that right. Part 5 reads:—

“Any shipper who considers that his business will be unjustly discriminated against if the agreed charge is approved and is made by the carrier, or that his business has been unjustly discriminated against as a result of the making of the charge by virtue of a previous approval,” and so on.

A. Now turn to the definition of the word “shipper” on page 2, at section I—“‘shipper’ means a person sending or receiving or desiring to send or receive goods by means of any carrier to whom this applies.” That does not apply to motor transport.

Q. It does not apply to motor transport, but it applies to the shipper, and if you wanted to get the shipper to do that you could quite easily do it. Unless you were prepared to come under this Act, I do not see any reason why you should be permitted to come and make a charge or be represented at the board. You are not affected at all, and you specifically ask that you not be.—

A. We are affected very much.

Q. Why not come under the Act, then? You ask not to be in there.—

A. If the honourable gentleman will solve the constitutional problem, we might come under the Act.

The DEPUTY CHAIRMAN: Gentlemen, next we have the Automotive Transport Association of Ontario, represented by Mr. Duncan and Mr. Goodman.

LEWIS DUNCAN, K.C., representing the Automotive Transport Association of Canada, called.

The WITNESS: Mr. Chairman, Mr. Howe and gentlemen, I am appearing for the Ontario Automotive Transport Association.

*By the Deputy Chairman:*

Q. What is your full name?—A. Lewis Duncan. I am one of the unfortunate members of the legal profession, so what I do not know about motor transport, with respect to that, I ask your indulgence.

There are some heads of submissions which are being distributed and some drafts which we have had prepared based in part upon information that came out for the first time in public before the Chevrier Commission sitting in Ontario. The members know Mr. Justice Chevrier, as he now is; he was long a member of this house. And this commission has been giving very careful attention to the provincial aspects of motor highway transport, and I associate myself with what Mr. Patton said in hoping that the recommendations that may be brought in as a result of that enquiry will assist the national interest in the co-ordination on a proper basis of the different forms of transport in this country. I see the memoranda are being distributed, and perhaps I might just first read the very short heads of submissions that we are making to the committee. I should like to use these more as texts than anything else.

1. Automotive Transport Association of Ontario does not oppose legislation which will promote fair competition between railroads and trucks. It opposes the “Agreed Charges” provision because it will perpetuate, while concealing, unfair competition. By “unfair competition” is meant competition at less than cost of operation.

[Mr. Lewis Duncan, K.C.]

2. The railways perform an essential function in the national economy, moving train loads and car loads of products of the farm, the forest, the mine and the factory over long distances. The trucks can not economically compete with them in this field; just as the railways cannot economically compete with the trucks in the field of medium haul, l.c.l. freight.

3. Motor Transport has become an essential part of the transportation economy of Canada.

4. The public commercial truck can haul l.c.l. freight for medium distances more economically and expeditiously than can the railway. L.c.l. traffic is a small part of railway traffic. It has never been fully remunerative; and since the war has been carried at a loss.

5. The "Agreed Charges" provision is designed to enable the railways to recover l.c.l. business lost to the trucks. This is not in the national interest. The legislation relieves the railways from the "rule of law" introduced by the Railway Act in 1903. It will make it impossible for the Transport Board to determine whether any type of traffic included in the "Agreed Charge" is being carried at rates which are unreasonably high, unreasonably low, or discriminatory.

6. What is required in the transportation system of Canada is co-ordination of traffic, each type of transportation handling the traffic which it can carry at a profit.

Co-ordination of traffic can be materially advanced and the operating position of the railways improved by three amendments to Bill 31:

- (a) By the elimination of the "Agreed Charges" provision;
- (b) By providing that on complaint of any person the Transport Board can disallow a rate on the ground that it is unreasonably low;
- (c) By empowering the Transport Board to place on the carrier the onus of justifying a rate which is alleged to be unreasonably low.

*By Mr. Young:*

Q. If you took all these things out, what good would the bill be?—A. May I use these as heads? I will come to your question later, if I may?

Q. Yes.—A. I think it is important for this committee to know what was said before the Senate by the official representatives of the railways last year when considering bill B. I will read from pages 259 and 260 of the Senate proceedings, the evidence of Mr. Flintoft. You will observe that a startling figure was suggested to parliament, and I propose to analyse that figure. I may say that by the time the committee has finished with the investigation, you will find that the suggestion contained there is as illusory as the suggestion that was advanced to the Duff commission yesterday considered by the Senate here as to the thirty-five million dollars that might be saved by co-ordination. Now, then:—

MR. FLINTOFT: It has been estimated, sir, by the department of economics of the Canadian National Railways that, taking a year—I think it was based on 1936; we will give you this in more detail when Mr. Allen comes to make his statement—the loss to the railways from motor-truck competition, owing to the fact that, in the first place, the traffic taken from them was a direct loss and, secondly, there was indirect loss through reductions in rates made in an endeavour to hold the traffic to the railways, amount to about \$38,000,000 a year. That is a very carefully worked-out estimate.

Right Hon. MR. MEIGHEN: Both the railways?

MR. FLINTOFT: Yes, as I understand it, it is both the railways. "Is that right, Mr. Allen?"



Mr. ALLEN (Economist, Canadian National Railways): Yes. Then lower down the page:—

The CHAIRMAN: Then the statement made as to percentages, if correct, might mean the difference between profit and loss to the railways.

He is thinking of what had been suggested that the Canadian National Railways were losing \$40,000,000 a year. And here is the startling figure of an economy to be made for the Canadian National system by agreed charges recovering from the trucks the business that is lost and giving \$38,000,000 back to the railways.

*By Mr. Howden:*

Q. To each railway, or the complete sum of \$38,000,000?—A. For the two railways. To the chairman Mr. Flintoft replied:—

Mr. FLINTOFT: Quite so. I wish we had that \$38,000,000.

The CHAIRMAN: The percentage is not so insignificant as it looks.

Mr. FLINTOFT: No. I will not say it is a net loss, because there would be some additional expense, but I think you can safely say there would be a net loss of over \$30,000,000.

And that is the reason for the agreed charges, obviously. If we put the national system back on its feet, it might be in the public interest to damage one set of small investors who risked their all on our giving service to small businesses and small towns, if \$30,000,000 net came in.

*By Mr. Bertrand:*

Q. That is not the only reason.—A. I will deal with that in a moment, if I may.

Then at the bottom of page 274 and at the top of page 275, Mr. Allen, Assistant Economist, Canadian National Railways, states:—

It is suggested that the effect on the railways of competition from highway transport has been misunderstood. The total effect is made up of the sum of three items: first, the measure of traffic actually diverted to the motor vehicles; second, the total effect in dollars upon the rate structure of the railways as a result of their attempts to meet an economic competition by tariff adjustments; and, third, newly developed traffic, incapable of estimate, which the railways might have enjoyed if the motor vehicles were not a factor. The sum of the first two items has been estimated recently by the Bureau of Economics of the Canadian National Railways at some \$38,000,000 per year, which is over 16 per cent of the total freight revenues of the Canadian railways for the year 1935. A large proportion of this total would represent loss in net revenue.

There was some question as to the amount of net involved in that \$38,000,000. If the traffic that we have lost to the highways moved at the average revenue per ton mile that we receive for all traffic, the loss in net would have been \$34,000,000 out of the \$38,000,000.

So the economist of the Canadian National Railways raises the figure by \$4,000,000, although he does qualify his statement with some phrases which are not explained, and the benefit of which is not given to the public. The impression is \$34,000,000—

[Mr. Lewis Duncan, K.C.]

*By Mr. Hanson:*

Q. That is the net revenue.—A. I do not see how the gross is \$38,000,000 if he can show a net loss of \$34,000,000. However, I am coming to that.

Now, that is what was put before parliament last year, and it is noticeable that this year those figures are not mentioned in the House. But they are being given outside, knowing that the members of the House read their daily newspapers. I am quoting here from the Free Press of April 27, 1938, a despatch from Regina quoting Mr. J. D. Healy, the principal representative of the vice-president of the Canadian National Railways, western region:—

Before members of the Regina Kiwanis Club at luncheon Monday, Mr. Healy declared that the railways in one year lost \$38,000,000 to the highway transport in Canada.

So that the figure is being continued and, if true, is substantial justification for very serious consideration of legislation which might adversely affect the smaller capitalistic economy of trucking.

This year, Mr. Rand and Mr. Walker, for the railways, in their very able presentation to this committee, avoided figures, but put the argument substantially on two bases: first, the benefit to the shipper of a lower all-the-year-round rate. This is to enable the rates to be lowered and that is most significant.

It is interesting that the proposed beneficiaries of the legislation, the shippers, have rejected the offer; but the railways pooh-pooh that, and they say the Canadian Manufacturers' Association does not know what it is talking about; and that perhaps the other shippers who will say they are very much opposed to it, do not know what they are talking about. The railways are proposing this beneficial legislation like a mother giving castor oil to her child.

The second reason that the railways advance is that they, themselves, wish to be free from regulations to which they are properly subject and have been made subject since 1903, as the very able brief of Mr. Brown of the Canadian Manufacturers' Association pointed out. They now want to be freed from the regulations with which they have been content since 1903, regulations that were introduced after Professor McLean made an exhaustive inquiry, which was reported in the journals of the House, into the evils of the then-existing system.

*By Mr. Bertrand:*

Q. What you term as proper regulations as far as the railways were concerned in 1903 cannot be termed proper to-day.—A. That may be so. When I come to that, if I might anticipate, it will be this: that under our constitution the proper solution is to have provincial boards analogous to the Dominion Transport Board which will subject the trucks to precisely the same type of regulation to which the railways are subject in the federal field. I do not want to anticipate. I am going to deal with that in a moment.

Q. If we were all of the same opinion, it would be easy.—A. Quite so, but my task is to endeavour to get some of you to agree with me.

I say that it is highly significant that neither last year nor this year has any railway representative attempted to give parliament any figures showing the net earnings or net losses on L.C.L. traffic. It is also significant that the bill in the next to the last section uses the words "net revenue." I will have something to say about that later on. They say it adds to the net revenue of the railways. It might add to the net revenue, although the traffic was carried at a very substantial loss and that loss cast a burden on other traffic and made it necessary to maintain higher rates for the transportation of agricultural products, because the railways wished to indulge in the luxury of trying to put out of business a new system of transportation which by reason of invention is able to serve the public more economically in the L.C.L. field.



Mr. O'NEILL: Mr. Chairman, I do not think a statement like that should be permitted to go unchallenged. We are not permitted to ask the witness any questions, but when he says, to all intents and purposes, that the agreed charge is for the express purpose of putting this young transportation system out of business, I do not think that is very fair.

The WITNESS: Well, I am sorry; I am only an advocate, and you know the weaknesses of advocates.

In dealing with the figure of \$38,000,000, I think it might have been franker on the part of the railways to have given to parliament in the Senate and to the House here a figure which was in their possession, because Mr. Fairweather, who was giving evidence yesterday in the Senate, had given this figure in a speech in Charlottetown, on the 24th of September, 1936. I do not know why he went to Prince Edward Island to make his speech, where there are not very many motor cars. He said that the gross freight rate loss was \$38,000,000 per annum, but as the operating ratio was 85 per cent, the net operating loss was \$5,700,000. So we are fighting about \$5,700,000 according to the statement of Mr. Fairweather.

Mr. YOUNG: I do not think so.

The WITNESS: Well, that is my submission. He bases it on 85 per cent.

Mr. YOUNG: I quite understand that that is one way of putting it.

The WITNESS: What he is speaking of, if I understand it correctly, is this: that your operating ratio is the ratio that your expenses bear to your earnings or that your earnings bear to your expenses, as the case may be. He is therefore suggesting that the system for which he was speaking, the C.N.R., at an operating ratio of 85 per cent was making 15 per cent, and he takes 15 per cent of \$38,000,000 as representing the profit. Fifteen per cent of \$38,000,000 is \$5,700,000. Now, that was not the net operating ratio of the C.N.R. I have the figures here. Going back to 1935 the operating ratio was 96.16 per cent, so in that year 4 per cent of \$38,000,000 would be a little over \$1,000,000. In 1934 it was 92.14. I will read the following years: 91.77; 91.89 and 91.13. In no case was the operating ratio equal to 9 per cent.

*By Mr. Bertrand:*

Q. You are not taking into account the volume that would be added to the railway traffic?—A. Well, I will deal with that in just a moment.

Q. You are answering all my questions in the same way. That is an easy way of getting out of it.—A. The honourable member knows the way lawyers postpone answering inconvenient questions. But I expect I will be subjected to examination afterwards, and I will be glad to answer as well as I can all questions put to me.

I was taking the net effect on the C.N.R. in the year in which he was speaking. Suppose half the loss of \$38,000,000 was suffered by the C.N.R. in gross, that is, \$19,000,000, the net operating ratio of the C.N.R. being 91.89, it would give a net operating loss of 8.1 per cent or \$1,500,000. And that is all that this legislation would have done, I submit, for the C.N.R. in that year if it had been successful in recovering all the business lost to the trucks. He went on to say in the same speech that the loss to the trucks was two million tons. This is in 1936. And Mr. Fairweather divided that as 80 per cent to the private carriers, people like Loblaw's who have their own fleet, or Labatts, and 20 per cent to the common carriers, common carriers being the people who serve the small merchants in the small towns, and people who have not the money to buy their own trucks to run their own business in opposition to their larger competitors. It is difficult to see how a loss of one million tons from the C.N.R. to the trucks could represent a net operating

[Mr. Lewis Duncan, K.C.]

loss, even as Mr. Fairweather says or as is suggested by his story, of \$1,500,000. I suggest the C.N.R. have never had a profit of \$1.50 a ton on the L.C.L. freight they have carried.

My submission to the committee is, shortly—and I propose to show it as well as we can, perhaps no more than an educated guess, such as we heard of yesterday from Mr. Fairweather in the Senate, but it is all we can get based on the professed ignorance of the Canadian railroads and the very intelligent enquiries that are being made in the United States on behalf of the Interstate Commerce Commission—my submission is that the railways have been losing money on L.C.L. freight, and that it is fortunate for the country that the trucks have been taking it.

Mr. YOUNG: By the same process of reasoning if you take a little more business away from the railways their losses would be less.

The WITNESS: Might I put it to the honourable member this way: If I were a manufacturer and if I had machinery adapted to manufacture sewing machines and lawn mowers and I was making a fair amount of money on the sewing machines and not much out of my lawn mowers and some person came along with more efficient machinery on lawn mowers and he was able to undersell me on lawn mowers because his costs were very much less, I do not think my board of directors would permit me as manager of a sewing machine-lawn mower factory long to continue a losing lawn mower business if it were reducing the profits on the sewing machine and they did not intend to embark on a more efficient lawn mower business.

Mr. YOUNG: I might say that I use that argument quite frequently, both within the house and without; not in reference to this matter but in connection with other things. I would suggest that that is an argument which has no application whatever to the question of the losses in our railway traffic, as you are trying to present it to the committee. None whatever.

The WITNESS: I am in the hands of the committee.

Now, coming to the first head of our submission. I suggest, therefore, that unfair competition is competition below the cost of doing business. That competition is not fair, when one medium of transportation which has a substantially lower cost of operation in handling certain traffic offers a benefit to the public in the form of lower rates. It is the progress of invention and the benefit of invention in reducing costs being offered to the people. That suggested this, on a very wide basis: We are very much troubled with questions of unemployment and how we can reduce the breadlines. My suggestion is that the most outstanding way is to improve trade and commerce; that is, if in any way trade and commerce can be increased people will be absorbed into business. Dealing with that: Trade and commerce consist in every transaction of only two elements, but they are present in every one; a change of ownership, and a change of place. Transportation. And if you do anything to improve efficiency in transportation and reduce the cost you automatically in a million ways increase the possibilities to little businesses who are growing up or are in business there in rural parts and taking on people, and passing back into the back country the benefit of regional transportation; which in this new country because you had to cut lines through the bush was lost to the early settlers and now is coming to them. And proceedings before the Chevrier commission indicated this; evidence was given that by reason of the fact that you got a multitude of small capitalists each having invested his thousand dollars or more in a truck going all over the country you are beginning to distribute trade and industry into parts that theretofore were not covered. You have a foundry going on near St. Paul that is getting customers in Toronto. The railway companies naturally build up trade and business at the termini where the large freight yards are—Toronto, Montreal, Vancouver, Winnipeg and so on.

Now this is redressing that mal-distribution of wealth and trade, and is parcelling out the benefits of trade to every community. And I suggest one should be very apprehensive in fostering legislation which will hurt that new system of transportation and would tend to throw back into railway hands the monopoly which they had for so many years.

*By Mr. O'Neill:*

Q. Would the trucks be prepared to enter into an agreement to carry all kinds of freight which might be offered by a shipper and not charge any greater rate than is now charged by the railways?—A. Oh yes, I think so.

Q. They would be prepared to do that?—A. I would say so, yes.

Q. Since the trucks object to these agreed charges, and they all say they are not in favour of regulation—why do they not approach the government of the province of Ontario and enter into such an agreement amongst themselves to carry all forms of freight, it does not make any difference what it is that people want to ship—and not charge any heavier rates?—A. They have been offering to do that; and, of course, the main contention of the railways is that they have been offering to take over what the railways carried before.

Q. Would they take coal and wheat and everything else the farmer wanted to ship; would they take a truck-load of wheat?—A. Certainly; but I do not think they would be prepared to haul the whole crop; nor do I think they could do it as economically as the railways, because the railways are there to do that business. But for less than carload loads, or ordinary truck loads moving in these provincial areas—

Q. You mean, selected business?—A. Well—

Q. I can only speak with respect to the province of British Columbia and I know that out there they will not take anything except high class freight; and, of course, they carry it at a lower rate than the railways would charge for it.—A. I would be very much surprised at any man having a truck if he is offered any freight at a rate that would give him a profit would refuse to take it.

Q. I am not going to tell you he could truck four or five tons of coal 50 miles out into the country where there is no railway competition—I am not going to tell you that he is prepared to do that, I do not know whether he would be or not?—A. As I understand it that suggestion was fully aired before the Chevrier commission which has been sitting since October and is still in existence, notwithstanding a letter which appeared in the press, and that was fully gone into. And, the truckers are not unlike other people—the railway people—they will take any business if it will show them a profit. But, we have not yet reached the point of planned economy when we legislate for manufacturers or others, to take all of the business that they can carry at a profit; and the truckers unquestionably will carry anything that is offered that they can handle at a profit.

*By Mr. Young:*

Q. I think that statement is obvious. It does not answer the question originally asked; would the trucks carry the whole of the wheat crop from western Canada?—A. They could not. No one suggests they could.

Q. When we take away this profitable traffic which you are wishing to take away from the railways what is the logical result; that pretty soon afterwards the loss of that business will result necessarily in the higher rates which must be charged on the balance of the freight?—A. Yes.

Q. What is that going to do to the company?—A. That, of course, if the premise is correct, would injure the railway position.

Q. And the country generally?—A. My answer to that, and I have no doubt about this, after having attended the Chevrier commission sittings since October and listening to the evidence, is that the railways have put out a myth that the less than carload lot freight was profitable, that it constitutes the cream of the traffic. Now, that is completely untrue.

[Mr. Lewis Duncan, K.C.]

*By Mr. McCann:*

Q. If it is possible for the trucking companies why should it not be possible for the railways?—A. I will deal with that shortly. I am coming to that. There is no doubt about it. It has been admitted on all hands on this continent; by Sir Edward Beatty, by the late Sir Henry Thornton, and the heads of railways in all parts of the country before the trucks became a menace, as they call them, that the L. C. L. business was not fully remunerative. Let me go a step further and give you some figures—

*By Mr. Young:*

Q. That is, considered by itself?—A. No, in any way.

Q. But as a part of the whole there is no doubt in the world that it is profitable?—A. If you have any information that I have not I am glad to have it. But I do not think—

Q. It is just like selling off-peak power, where you sell it at an apparent loss but in reality it pays the power-plant very, very well, it pays the power-plant to sell this off-peak power at what appears to be a loss.—A. It involves actuarial investigation, I agree.

Now, coming to the second head of my submission, we admit that the railway perform an essential function and that they move trainloads of agricultural and other products that the trucks could not possibly handle, and the trucks could never compete I suggest at the present time with the railways in the field of train-load movement, just as railways cannot economically compete with trucks in the medium short-haul movements. The lucrative business of the railways is the large volume movements, and that falls into four categories—and I have a chart here, if I may show it to you. I have here a chart prepared to show for the Canadian National Railways tonnage over three years. The three years taken were 1928, the peak year in tonnage; 1933, the bottom year in tonnage; and 1937, last year. Here we have in millions of tons the amount of freight handled by the Canadian National Railways. This is the total freight handled in three years. Considered together—they come always together—that is to say that blue line represents the peak of 1928—and in that year we had a little over 65,000,000 tons of all classes of commodities.

*By Mr. Bertrand:*

Q. Does that include L.C.L.?—A. Everything is included, L.C.L. is there. In 1933 a little over 30,000,000, and a recovery from the low of 1933 to 1937 of between 45,000,000 and 50,000,000—a recovery of 50 per cent in tonnage from the low. Now then, the real business of the railways falls into four main categories: They are forest products, agricultural products, manufactured and miscellaneous products, and mines products. And there is a fifth, an altogether insignificant portion of their business, which is less than carload business, represented in the graph.

Let us before dealing with the L.C.L. consider the forest products. There was a recovery from the low of about 66·8 per cent in 1937—so the Canadian National was not doing so badly at that. In agricultural products there was a drop of 14·2 per cent—and this was due not to railway conditions but to conditions to which no one had any control.

*By Mr. Johnston:*

Q. That 14·2 represents the line relating to agricultural products?—A. Yes, it represents the percentage of loss or gain from the low.

Q. For 1937?—A. Yes, for the period from 1933 to 1937. That indicates the decrease in agricultural products, and you will see what that meant to the railways, because if there had been anything like a corresponding increase in

1937 in those categories of freight it would have improved greatly the railways' financial position and would have brought them an appreciable distance back to the year 1928.

Then, manufactured and miscellaneous products show an amazing increase of 85.1 per cent, showing the great recovery in that field.

And in mine products an increase of 72.9 per cent—International Nickel, the gold mines and so on. That is on a tonnage basis, not on a dollar value basis. Now, that is the first chart, and I think copies of that have been given to members of the committee.

*By Mr. Howden:*

Q. You did not mention the L.C.L.?—A. I am sorry, thank you. May I come back to L.C.L., and the committee will observe that at the peak year the tonnage was a little over two million tons.

*By Mr. McCann:*

Q. Is that the peak for these three years, or for all time?—A. That is the Canadian National all-time peak. I should say this is not the all-time peak in L.C.L.—

Q. That is what I wanted to know, when was the peak in L.C.L.?—A. I can perhaps give you that—

The DEPUTY CHAIRMAN: You might go on and give the explanation afterwards; if that would satisfy Dr. McCann.

The WITNESS: Well, I think I can answer the honourable member this way; that since 1919 the greatest L.C.L. tonnage carried by all the railways of Canada together never acceded 4,600,000 tons.

*By Mr. Bertrand:*

Q. Since when?—A. Since 1919.

*By Mr. Dupuis:*

Q. So that 1919 was the peak year?—A. I did not say that was the peak.

Q. What has it been since then?—A. Since then the greatest tonnage in L.C.L. every carried by all the railways of Canada in any one year was about 4,600,000 tons. The part of that carried by the Canadian National Railways would be 2,300,000 tons; so that we have here approximately the peak for the L.C.L. for Canadian National. I will get the figures for the honourable member shortly. Now then, that dropped to a little over 1,000,000 tons; an insignificant portion, of course, of the total railway business; and it is a recovery, notwithstanding what we have heard of truck competition, of 35 per cent.

*By Mr. Young:*

Q. But not on account of truck competition?—A. Quite so, I agree.

*By Mr. McIvor:*

Q. How do you account for that increase?—A. How do you account for it?

Q. Yes?—A. Well, the railways were carrying it at less than cost, and also people were taking advantage of loss leaders in the railway business.

*By Mr. Johnston:*

Q. This less than cost term has been used so much that I get kind of confused about it. Do the railways know what it costs them to take say 100 tons 100 miles?—A. Yes, certainly; they can determine what it costs to run a particular train between any two points; and there are all sorts of other costs they can give. They can determine the cost of carrying a certain class of traffic at less than carload rates.

[Mr. Lewis Duncan, K.C.]

Q. Trucks could do the same thing couldn't they?—A. Oh, yes.

Q. Do you know what that would be on a given commodity?—A. It is not so much on the commodity as on the load.

Q. Well, on the load?—A. Oh, yes. those costs can be determined. I will give you some figures on those in a moment. I have them here.

*By Mr. Dupuis:*

Q. Well, right at that point I would like to clear up that question on the L.C.L. business as far as the railways are concerned.

The WITNESS: I have the figures now.

*By Mr. Dupuis:*

Q. A particular train carrying a load of goods from one point to another in less than carload lots—suppose that out of fifty cars there are five cars with less than a carload; they have the same overhead, the same personnel is used and they have the same expense for coal and so forth; how can you come to the conclusion that they do business on less than carload lots at a loss?—A. Well, as I say, it is an actuarial matter. That has been most carefully investigated, and I will give you the conclusions of some very responsible people.

Q. I do not like very much hearing repeated references to things as being actuarial matters. We are here I submit to be educated, if I might use that word—there is no impropriety about it—and it is very important; I do not think it is proper or appropriate to come here and say, well it is an actuarial matter and we have figures on so and so.—A. I was not going to leave it at that.

Q. That is one of your biggest arguments?—A. Yes.

Q. What you say in effect is that what we are taking is just a nuisance to the railways and all we are doing is to take it away from the railways which as a matter of record are carrying these things at a loss all the time?—A. Yes.

Q. So the more of these things we take which the railways were carrying at a loss the less they will suffer. That is one of your biggest arguments. Unless you prove that less than carload business always involves a deficit to the railways I do not believe your argument would be of very much value.—A. If I did not think I could in due time prove that to your satisfaction I would not have advanced it as an argument at all.

Q. I know pretty well what the usual practice is; when we can't answer an argument we usually say, I will come to that later, then the subject is passed over and the argument is never concluded.

*By Mr. Edwards:*

Q. On that particular point; when you say less than carload, you do not mean that the car starts out with a half load. You mean that a car starts off loaded and drops off at intervening points certain amounts of freight?

Some Hon. MEMBERS: No, no.

Mr. EDWARDS: You are shipping L.C.L.—supposing a car contains 40,000 pounds and you start with 40,000 pounds—

The WITNESS: Forty tons.

Mr. EDWARDS: Supposing you start off with forty tons. You have a car loaded with forty tons. You just drop ten tons at one point, twenty tons at another point and 15 at another and so on until when you arrive at your destination you have a very small load left in the car. I think it is a straight actuarial proposition.

The WITNESS: Yes. I will deal with that, but I have tried to put my thoughts in ordered form.

The CHAIRMAN: Go on with your statement, Mr. Duncan.



Mr. Ross: Let us question the witness afterwards.

The WITNESS: Might I then just read into the record the L.C.L. freight tonnage carried by all railways. This is in millions of tons, and I won't read the years. It begins with the year 1919 when the tonnage was 3.9 million; then 4.3, 4.3, 4.0, 3.9, 3.6, 4.0, 4.4, 4.5, 4.6—that is 1928—4.4, 3.7, 2.9, 2.2, 2.0, 2.2, 2.1, 2.3, and 2.5 for 1937. And, I have the figures for the Canadian National if anybody wants them. Now, what do the railwaymen themselves say about this business of L.C.L. freight? I give quotations from two recognized railway experts. The first is Mr. Samuel O. Dunn, editor of the *Railway Age*; and he says, from the transport of bulk commodities the railways derive their largest profits because of the heavy loading per car. And the second speaker is Mr. J. R. Tierney, vice-president of the St. Louis and Southwestern Railway, who in a speech at Tulsa, Oklahoma, to the Associated Traffic Clubs of America on the 22nd of October, 1932, said as follows: This is a day of reduced inventories and not of movements in bulk. The average box car loading to-day is only 50 per cent. It costs more to haul our box cars than the freight they contain. Of the total life of a freight car 10 per cent is spent in line haul movements, 90 per cent is spent in terminals, switchings, loading and unloading and around the shops. The overall speed of movement from consignor to consignee is under 10 miles an hour. The average L.C.L. load is less than 5 tons. That is the American figure, I will give you the Canadian figure; it is less than that, it is only about three tons for our cars which will carry 40 tons. The average car has an average capacity of 40 tons, and the tare weight is 20 tons. We have four pounds of car for one pound of freight.

Now, I say the trucks have taken a limited amount of L.C.L. freight away from the railways, but they are not thereby responsible for the present financial condition of the Canadian National and the Canadian Pacific railways; nor for the reduction of personnel that thereby is caused. I suggest there are six main causes for the present position of the railways: First is the decline in agricultural traffic. Secondly, the Panama canal. And, in the proceedings before the Senate this year some graphs were filed and one of them was No. 23, which will be found on page 62 of the Senate proceedings, and it there shows that the amount of freight passing over the Panama canal—Canadian freight—was in 1923, 1,035,000 tons, and in 1937 it was 4,333,000 tons; or an increase in Panama canal tonnage of Canadian traffic of 3,300,000 tons. The third is inland water transportation; and I have here the figures for the Toronto harbour and they can be paralleled by other harbours. In 1923 the tonnage in and out of Toronto harbour was 346,000 tons. In 1937 it was 3,020,000 tons, or increase in tonnage of 2,600,000 tons. And by these water movements you have an increased water movement amounting to 5,950,000 tons. The fourth reason for the financial condition of the railways is the maintenance of non-paying lines; and the Duff report, if I am not mistaken, suggested that there were several thousand miles of non-paying line in operation. We see examples of that all over the province of Ontario. You have a line on which the average service is one train per week. The investment in ties on that line would amount to maybe \$50,000. No matter how they are treated, I am told, ties depreciate at the rate of 50 per cent per annum and have to be renewed. That amounts to \$5,000 a year in the replacement of ties alone over a line on which you have one train per week running. My suggestion is that the situation is due—

Mr. YOUNG: Well, this may be very interesting; but what in the world has it to do with the bill?

The DEPUTY CHAIRMAN: That is what I was going to enquire.

Mr. YOUNG: Whatever he has got to say, there are other factors causing losses to the railways in Canada, but I do not see what that has to do with the bill which is now before us.

[Mr. Lewis Duncan, K.C.]

Mr. EDWARDS: It is very interesting.

The CHAIRMAN: He has only two points more to go, perhaps he better finish.

The WITNESS: I do not want to trespass on the time of the committee, and I will be glad to get off that topic if you so desire it.

Mr. EDWARDS: I am very anxious to hear it.

Mr. O'NEILL: I do not think that statement concerning the ties is correct.

Mr. HOWDEN: I move that the witness proceed, Mr. Chairman.

The DEPUTY CHAIRMAN: The witness will proceed.

The WITNESS: Just in finishing on the matter now before the Senate I have this submission to make: that the situation has altered radically since the advent of the motor truck, the bus, the passenger car and the provincial development of highways, gridding each province with permanent highways and largely keeping them open in the winter.

To-day in southern Ontario, and by that I mean south of North Bay, I suggest that there is not one day in the week which is not better served by highway than it ever was served by railway or that it is to-day served by railway; and that no one would feel the loss if the railways were allowed to pull up those non-paying lines on which they lose a great deal of money.

The fifth one is this,—non-paying traffic. If my contention is true, L.C.L. business is non-paying, and a great deal of what the railways do to the boats is entirely uneconomical. I can see, as one of these theoretical economists, having studied under James Mather of the University of Toronto, in justification whatever in a railway rate for summer traffic which is deliberately put below railway costs in order to take business away from the boats which the railways will get back in the winter when the boats cannot move.

The last topic is due, I say, to export and world market conditions, because we in Canada are completely dependent on world conditions for our prosperity, including railway prosperity. Graph No. 2 is a graph from 1919 to 1937. It is prepared under the following headings:—

1. Annual exports in millions of dollars.
2. Freight carried on all steam railways in Canada.
  - (a) Total freight in millions of tons.
  - (b) L.C.L. freight in millions of tons.
3. Employment of steam railways in thousands of employees.
4. Net operating revenue Canadian National Railways in millions of dollars.
5. C.N.R. interest obligations.
6. Registration commercial vehicles.

This is given more for a pattern than for individual accuracy as to figures. I think the figures are substantially correct, but on such a large scale as this one cannot be absolutely accurate. The top graph is separate from the bottom one, and you will observe it is on a different scale from the bottom one. That is to say, the peaks and elevations are foreshortened visually, but I submit that does not affect the general conclusion.

One sees in exports from Canada on the millions of dollars bases, 1919, prosperity. The same for 1920. The depression in 1921. A gradual rise to a peak of 1928, and a serious decline to 1932, then a very reasonable recovery, indicating a healthy recovery in that upturn from 1932.

I am going to make the suggestions that this is a little better chart to take to indicate what the railways are doing than the last of the charts that was submitted to the Senate, because that was a combined chart showing bank clearings, volume of business, and dollar value of manufactured business. As one knows



very well, the bank clearings went up terrifically when every man, woman and child who had a bank account was putting out cheques for stock purchases. That had nothing whatever to do with railways. This represents very largely railway business, being the export business from Canada.

I should like to come first to the total freight carried by all railways. I suggest the similarity in pattern between that graph and the first graph is remarkable. To all intents and purposes, it parallels it, with this one exception, that there is not quite as smart an upturn as there was in the export trade.

The next is the employment on the railways. The trucks have been blamed for the lack of employment on the railways. I submit this clearly dissipates that myth. The employment on railways parallels exactly the export condition and parallels the tonnage condition.

We come next to the L.C.L. freight, and this embodies the figures which I read into the record. You will observe that at no time did it exceed five million tons and that it has been tailing off at the end and keeping a fairly uniform condition.

Then we come to the net operating revenue of the C.N.R. These figures are taken from the heading, so headed in the annual report of the C.N.R. We see that in 1928 the C.N.R. made a net operating profit of a little under \$60,000,000. That is a reasonable operating position—their expenses as compared with their profits. Then they drop down to the low.

Following were the export conditions. You have an upturn, but it will be observed the upturn is a weak upturn in profits.

Net operating revenue compared with exports. At this stage perhaps I should say that net operating revenue has a technical meaning in railway circles. It means the difference between those costs that are charged to actual operation, on both sides of the revenue coming in. It does not include taxes and it does not include some other figures. Broadly, it does not include interest payable on the funded debt or whatever obligations there may be to the people of Canada.

*By Mr. Isnor:*

Q. You say it does not include taxes?—A. No. Taxes are an insignificant figure. As a matter of fact, the tax accruals were something like two or three million in some of these years. I am taking it from the way they set their books up, because I did not want to embark upon any researches of my own. Now, the upturn is weak, and my suggestion is going to be that that is very largely due to the fact that they have been deliberately taking L.C.L. freight at less than cost—and I hope to back that up.

Coming to the C.N.R. interest obligations, the line runs along commencing in 1923 when the Canadian National Railways were taken over. It reaches a peak in 1932 and then begins to decline to 1936, and then has a very sharp decline in 1937 due to the changes in book-keeping with which the members are all familiar.

But my suggestion is that in 1928 the net operating revenue of \$58,000,000 was approaching within reasonable distance all the interest obligations of the Canadian National Railways, and that if sane, modern business conditions are applied to what types of traffic the railways will carry, there is no reason why their upturn should not be greater in the future than it has been as shown by this chart.

The final thing on the chart is the registration in thousands throughout Canada of all types of commercial vehicles. You will see the amazingly strong line there going up with great vigour. That cannot be broken up. The department of statistics cannot give the break-up because the provinces do not report, and it includes, as Mr. Patton pointed out, such things as privately owned trucks, fleets, delivery trucks within the cities, which will be a large number, farmers' trucks, municipally owned fire trucks, and things like that.

[Mr. Lewis Duncan, K.C.]

But it is put in there only to indicate that there is obviously a great public need which is being filled by the creation and maintenance of over a hundred and eighty thousand commercial vehicles throughout Canada, with the graph going on much more strongly and indicating, as I submit, that small business in the rural parts of the backward points and the smaller towns are being given a transportation service which they never had before, a transportation service which I suggest holds out great promise for the future in trade and industry.

*By Mr. Bertrand:*

Q. You are arguing about the L.C.L. freight?—A. Yes.

Q. You have not told us that the trucks handle also what is known as carloads to a very large extent to-day.—A. I do not know to what extent they handle it. They may take it for limited distances.

Q. Do you call the distance between Montreal and Toronto a limited distance?—A. I have not got the figures, but I do not think you will find much in the way of carload business. There may be truckload business. The trucks will carry from five tons up to fifteen tons.

*By Mr. O'Neill:*

Q. With three or four trailers on behind carrying the same amount?—

A. While not saying that there is some carload business carried—

*By Mr. Bertrand:*

Q. Trucks are carrying in carloads anything that is light.—A. That the railways do not want.

Q. No, that the railways would take with great pleasure, but that the highway carriers are able to carry at a reduced rate.—A. Because their costs of doing business are low.

Q. For that and many other reasons.—A. Yes.

Mr. JOHNSTON: Very few trucks could carry forty tons.

Mr. BERTRAND: Take furniture, they will carry that.

Mr. JOHNSTON: Forty tons?

Mr. BERTRAND: No, but they will carry all material that is light, like furniture.

The WITNESS: I will have a little to say about chesterfields. That is a sore point with me, and I will deal with that in a moment.

But looking at the general picture you have four media of transport developing in this country, rail, water, road and air. Each one is peculiarly adapted to the economical handling of a certain type of business. There will always be an overlapping at the edges, and no one will object to that overlapping and to a certain conflicting of interests there. But within the classes of business in which these different media can best operate I do not think personally, as a theoretical economist, it is in the interests of the country that one should intrude at less than cost. The great question is, What is cost?

Now coming to motor transport, and just a word on that. It is becoming an essential part of the economy of Canada. You had that from the brief of the Canadian Manufacturers' Association indirectly. Within its range of operation it gives speed and a service which cannot be matched by any other type of transport. Based on that speed and service, radical changes in merchandising have taken place. Fresh stock is carried to the grocery stores, with lower inventories and less expense. The trucks will take a small load out to Sutton, or some other place, and from day to day, almost, supply the requirements of the storekeeper.

That also happens in connection with big business. Trucks are to-day in the motor business of this province assisting in the extension of the moving construction line of the motor car manufacturer who puts his chassis at the one end and gradually builds it up until he has a car. In some cases they are actually going across the border and getting parts from the manufacturer in Detroit which will be delivered on an hourly schedule at the plant in Oshawa, or elsewhere, and be transferred right from the truck on to the moving platform. That reduces costs, makes it unnecessary to apply to those useful people, the bankers, for the same amount of credit; and anything of that sort which tends in the direction of efficiency puts Canada as a trading nation in a better position than she was before; and my suggestion is that anything that disturbs the natural development of the economic functions of these four media and which puts a brake on the efficient one or subjects it to unfair competition will inevitably be reflected in the internal market in greater cost to the consumer and in the external markets of Canada in a disadvantage as compared to other countries which have not developed the same high degree of efficiency in services.

*By Mr. Bertrand:*

Q. I would like you to explain how the agreed charges will stop the trucks from taking cuts—you are very far away from the question.—A. Again, might I just say, I will come to that. I have got it. I then make this point—and I do not think I will be very long—of the total points served by trucks 2,700 are located from  $\frac{1}{2}$  a mile to 50 miles from the railways.

*By Mr. Young:*

Q. Would they not still be served by trucks even if this bill goes through? —A. They will be under the same limitations as the railways, possibly the railways themselves would handle it by having a vice-president—and all the hierarchy of archangels which is usual to their form of organization—

Q. You are not suggesting that this bill is going to put the trucking people out of business?—A. I am suggesting that it is a most dangerous threat to the common carrier. It was put in in England for that reason. It has worked as a blunderbus pointed at the heads of the common carriers, ready to blow them off the map, and is a constant threat.

Q. As one member of the committee I can not follow you that far. I quite understand that there might need to be some readjustment; but the suggestion that the trucks would go out of business is I think a long stretch of the imagination?—A. I think Mr. Patton put it exactly; that it leaves the big manufacturer to put on his own fleet because he has got the tonnage to carry, but his smaller rival who is dependent on the common carrier—the man who brings this service to all the little dealers—will be put out of business.

*By Mr. Bertrand:*

Q. It is used for just the opposite purpose, it is meant to help the railways meet the unfair competition of the trucks?—A. Yes, I agree—

MR. BERTRAND: You are protected. You can do anything you want to. You are now in the same position as the railways were in in 1903 when they had open competition, and when parliament had to step in as the representative of the people and protect the railways.

MR. HOWDEN: I do not believe it serves any purpose to tell the witness things of that kind. We are here to hear what he has to say and to consider it.

THE DEPUTY CHAIRMAN: I think the witness himself has invited questions on his submission as he goes along.

MR. BERTRAND: And there has been an expose of the business of the railways, and you come to us to-day as an expert, one who at the same time is a [Mr. Lewis Duncan, K.C.]

lawyer, expounding the case of the truckers. I think we should be free to ask Mr. Duncan any questions we feel we want to ask. If he is making a point we do not care what we have to tell him. Otherwise, the public will be under the impression that this bill will be absolutely unfair.

The DEPUTY CHAIRMAN: I would like to ask members of the committee that they permit the witness' argument be heard without interruption.

Mr. BERTRAND: We as members of this committee may feel that we have a lot of questions to ask this witness.

The DEPUTY CHAIRMAN: Go ahead, I am not preventing you.

*By Mr. Parent:*

Q. When you were on that last graph, at the bottom of the page you show the L.C.L. rate of all the railways. Have you any breakdown or analysis of that to give to the committee?—A. I read the figures into the record.

The DEPUTY CHAIRMAN: That particular chart deals entirely with the less than carload lot freight.

*By Mr. Howden:*

Q. I was thinking while you were giving those figures in connection with less than carload lot freight that it would have been very useful and interesting as an addition to those figures if you could have given the committee an estimate as to what these L.C.L. figures would have been if we had not had that truck competition to deal with?—A. I think I can give you something on that.

*By the Deputy Chairman:*

Q. Is not that indicated in your chart there dealing with L.C.L. freight?—A. Yes.

The DEPUTY CHAIRMAN: The third chart deals entirely with L.C.L. freight, and I think the witness dealt with it rather fully.

The WITNESS: Now, in Ontario alone there are 75,000 trucks representing an investment of over \$115,000,000. For the whole of Canada there are 200,000 trucks representing an investment of over \$400,000,000; and of these not 10 per cent are commercial vehicles, the balance being divided between city and highway haulage people. The people who have been supplying the services are people who have put their own money for the most part into the venture and they have everything at stake. They have not got the resources of the taxpayers of Canada to fall back on in order to meet competition.

*By Mr. Bertrand:*

Q. At the same time when you were giving these figures you might take into consideration the enormous losses that the proprietors of the trucks have taken in the course of the years. A lot of them have carried traffic at such low prices that they have failed. In giving the figures with respect to the railways you have indicated the accumulated deficit. That makes a big difference in the picture?—A. My submission on this head, before leaving it, is just this: That the invention of the Petrol engine has rendered the railways obsolescent in the medium of the L.C.L. field—the medium haul L.C.L. field.

*By Mr. Dupuis:*

Q. Mr. Chairman, if I understand the figures given by Mr. Duncan correctly on his chart showing the L.C.L. freight, in the figures at the bottom of the chart there does not seem to be any approximate difference between 1919 and 1937?—A. There is a drop of about 2,000,000 tons.

Q. Well, that is nothing?—A. That is what Mr. Fairweather told the people of Charlottetown, there was a drop of 2,000,000 tons.

Q. That just destroys your own argument. If the railways had maintained that type of traffic at approximately an even volume for 20 years I would be more inclined to think your argument sound?—A. My submission there is that you do not need these agreed charges. It would cause disturbances in the business throughout the country and it would irritate shippers if you tried to get back the necessary 2,000,000 tons.

Q. You will note that from 1919 to 1925 there was not much truck traffic in this country?—A. No, it began in 1925.

*By Mr. McKinnon (Kenora Rainy River):*

Q. Just on that point of L.C.L. rates: Do you not think the railways and trucking companies are in substantially the same position. For instance, you have a five ton truck and you have four tons loaded. You would probably take on another ton at a reduced rate?—A. Yes.

Q. Exactly the same thing applies to the railways. They are running a train of we will say a capacity of 3,000 tons and they have loaded only 2,500. There might be an offering of 500 tons which they could load on to that train of the L.C.L. type of freight. They might be able to take that at less than carload rates. When you say that it is not to their advantage to do that I do not agree with you.—A. I am going to give you something on that.

The DEPUTY CHAIRMAN: It is 1 o'clock. Mr. Duncan, can you tell us how long it will take you to conclude this afternoon?

The WITNESS: That will depend on the number of questions I have to answer, but I would hope to be through, going at the rate I have been able to make this morning, in about three-quarters of an hour.

The DEPUTY CHAIRMAN: I think we had better meet at 4 o'clock this afternoon.

The committee adjourned at 12:57 o'clock p.m. to meet again at 4 o'clock p.m. this day.

## AFTERNOON SITTING

The DEPUTY CHAIRMAN: Mr. Duncan, will you please resume your evidence? LEWIS DUNCAN, K.C., recalled.

The DEPUTY CHAIRMAN: Mr. Duncan, you were dealing with No. 6 on your submission.

The WITNESS: Yes. I will omit something I was going to deal with, which is the reference in the Duff report to motor transport. Perhaps I could refer to the pages. Pages 55, 56, 107 and 108.

Then I was going to refer to the employment in the trucking industry. My suggestion is that there are now far more people actually employed in the trucking industry than there are in the railways. That number is growing all the time.

*By Mr. Howden:*

Q. Can you give comparative figures?—A. I can give you something very rough, but the figures are not sufficiently accurate to enable us to speak with sureness.

This line on graph 2 represents the number of commercial vehicles in use at any one time. There are nearly two hundred thousand.

[Mr. Lewis Duncan, K.C.]

The evidence before the Chevrier commission was that while some trucking firms employed 2.4 people for every truck, giving direct employment, the average of commercial trucks related to employment works out at a figure of 1.3 people giving direct employment for every power unit. Of that, .3 persons are doing bookkeeping, warehousing and so on. It is impossible, as I say, to break up that figure and say how many of these trucks are purely commercial trucks, how many are common carriers' trucks, how many are farmers' trucks and how many are city delivery trucks. But quite obviously, looking only at the trucking industry as such, if you have 1.3 persons employed per truck directly, and if the figure to-day is 200,000, then you have 266,000 people directly employed in the trucking industry, as compared with your railway employees to-day of 130,000. And those people are not in one or two areas, they are in every riding and community throughout the country, and in daily personal contact with every class of business, because they are doing a personal business.

*By Mr. Elliott:*

Q. Is that in the province of Ontario?—A. These are Canada wide figures in graph 2. If 260,000 people in the whole trucking industry are directly employed, unquestionably more than half a million in addition are indirectly employed; that is, nearly three quarters of a million people directly or indirectly employed in the trucking industry or supported by it.

I would say that we ought to be grateful to Providence in the period that has elapsed since 1929 that a new industry has come in which has offered employment in life to young people, truck drivers starting at 17 and 18 years of age and getting permanent employment, getting married and establishing themselves and going on progressing in the business. So that is an aspect which should be considered as well.

*By Mr. Isnor:*

Q. You say there are 130,000 employees of the railways. That does not include stevedores and freight handlers on the water front, does it?—A. I am sorry; I cannot give you an answer to that.

Q. It is as fair to add the stevedores, I suppose, as it would be to add the office staffs in connection with the trucking industry?—A. I would think so. I think it should include all railway employment.

Q. Therefore, your comparison, as far as employees are concerned, really does not amount to a great deal?—A. I am not trying to make an accurate comparison, I am only suggesting the trend.

*By Mr. Bertrand:*

Q. You are not suggesting that bill 31 is going to throw these 260,000 employees on the streets, are you?—A. No. I am not going to say that.

Mr. JOHNSTON: It would throw some of them out.

Mr. BERTRAND: I do not think it will mean any difference at all.

The WITNESS: Before I deal with the actual figures on L.C.L. traffic showing whether the railways are making a loss or not, may I deal with two things? They are a little aside from the question, but I think they are really germane.

The railways have propagated another myth, that the motor transport is not paying its way because it has the free use of highways. That was fully dealt with before the Chevrier commission. It is a little odd that the railways should come forward to produce that argument because they are the people who are the beneficiaries of rights-of-way, having substantially been given their rights-of-way by land grants and money grants by the people of Canada, and



they are running over their own rights-of-way. The trucks to-day do not own highway rights-of-way, but they, with the other motor users, are very definitely paying for those rights-of-way and constructing them at their own expense, and they are being held by this government.

Just let me give you some other startling figures to indicate that. I am taking the province of Ontario alone. The largest single source of revenue in the province of Ontario, far and away greater than corporation taxes or succession duty taxes, is the money received from highway taxes. By that I mean the licences for commercial and other vehicles and the receipts from the gasoline tax. The province of Ontario last year received from income tax \$2,600,000.

It received from the Liquor Control Board profits \$7,800,000. It received from corporation taxes \$10,900,000.

It received from succession duties \$15,900,000, including the estates of people who had died sometime ago and whose estates were open.

And it received from highway taxes \$26,900,000.

Those taxes are paid by the different classes of users, of which there are three, private cars, private trucks and commercial trucks.

*By Mr. Hanson:*

Q. Have you got there what the Ontario government spent on highways to keep them in good repair?—A. Yes. The \$26,000,000 is more than paying the way for new construction and maintenance. That is all being dealt with by the Chevrier commission.

*By Mr. McCann:*

Q. What year are you speaking of?—A. 1936.

Q. What about last year?—A. The figures are not up to date.

Q. They were up to date in the last budget.—A. Well, they may be there; if so, I have not got them.

*By Mr. Young:*

Q. Would you be good enough to tell us how much the province of Ontario actually does spend annually on the upkeep of the roads?—A. I have not got those figures, but I could get them.

Q. And, in addition, the interest charge on the money invested?—A. Yes.

Mr. YOUNG: I happen to know something about another province, and if conditions in Ontario are comparable with the conditions in this other province, that statement would I think have to be amplified a bit, because in every province that is not true. There is not sufficient even from all the sources they have to take care of the roads.

Mr. JOHNSTON: To what province are you referring?

Mr. YOUNG: Alberta.

The WITNESS: I can say that one of the main railway contentions before the Chevrier commission is that the trucks are not paying their way. The trucks are putting in evidence which we submit will completely answer that.

The average passenger car paid in 1936, \$42 in fees and gasoline tax.

The average private truck paid \$100 in fees and gasoline tax.

The average commercial truck, and there are very few of them, paid \$486.

Commercial trucks represent only 11 per cent of the vehicle registration in the province, and they paid 26 per cent of the total, or over \$7,000,000 alone.

The effect of the taxation on the industry can be seen from this: You can take a typical commercial truck with a pay-load of ten tons, licensed to use only 82 miles of highway, Toronto to Orillia, and in that year it paid to the government in fees and gasoline tax \$1,001.72.

[Mr. Lewis Duncan, K.C.]

*By Mr. McCann:*

Q. And it wore out more roads than one hundred cars.—A. No. The engineers report from Ontario that the roads are permanent. That, I think, is agreed between us and the railways. We do not put trucks on to destroy roads, because the engineers would be at fault if they constructed roads that were not capable of carrying this traffic. There is a stretch of road there that looks as if it could last for forty years, and we have running rights over them. Each truck of that type pays \$1,000 a year.

As far as the burden of taxation is concerned, that is a provincial matter but I just mention it to clear away a misconception. The burden of taxation on the railway is infinitely lighter than on the trucks.

In 1936 the combined tax accruals of the Canadian National and the Canadian Pacific Railway were \$8,319,000, while in Ontario alone some five thousand commercial vehicles paid \$7,000,000 to the treasury of that province, for highway taxes alone, which is nearly as much as all the taxes of the dominion and the provinces for both railways.

*By Mr. Elliott:*

Q. Can you give us that in percentages?—A. I was just coming to that. In 1936 the combined tax accruals of the C.N.R. and C.P.R. were 2·8 per cent of their operating revenues. The corresponding figure for class A licensee in Ontario was 10·47 per cent of his operating revenue.

The trucks are paying their way and rendering a service to the public. If they are undertaxed in Ontario, you can leave it to the premier of the province to see that they are adequately taxed. Furthermore, it will undoubtedly be dealt with by the Chevrier commission. The railways have asked that the truck taxes be greatly increased, and in their formal brief to the Chevrier commission they have done what the railways have been doing in every State in the Union where they have had similar enquiries, and in England, trying to get increased taxes. And schedule D to the railway brief asks specifically that the following be the increases in taxes to be levied on trucks:

A vehicle which to-day is paying \$500, combined gasoline and licence fee, the railways suggest should in future pay annually \$1,287.

A truck which is paying to-day \$849.50 in licence fees and gasoline tax, the railways kindly suggest should in future be taxed \$1,686 per annum, as much as the write-off for depreciation. And that would vastly increase, of course, the percentage of tax to operating revenue.

Now, that will be dealt with by the Chevrier commission. That is all going to be adequately dealt with, and there are other things which will be shortly dealt with by the Chevrier commission. These are before the commission. I cannot say what it will find, but these are the points on which there seems to be substantial agreement on the part of the truckers, on the part of the shippers and on the part of the railways: A labour code should be brought in. They all want this. The trucks have been trying to get uniform labour conditions, to keep the bad trucker from destroying the position of the good trucker who can not pay proper wages if he has somebody undercutting him in pay. There should be some system for regulating hours, safety and size of vehicles. They are all agreed that should be regulated by the government. Thirdly, taxation: The costs of roads and the annual cost of construction and maintenance is being considered, and the suggestion is that that will be fairly apportioned over all the road users according to the different classes. And, finally, the fourth and most important matter is that everybody is agreed that in the province you should set up a board say of three people that functions in all respects similar to the Board of Railway Commissioners, or the Transport Board as it is to be called; and that board should provide that rates must be filed. They must be made public. They are to be adhered to,



and the board is to have jurisdiction on the complaint of any person affected to disallow rates because they are discriminatory or unfair, unreasonably high or unreasonably low. Now, if that board is established as the result of the Chevrier commission findings the natural thing would be for that board to co-operate with the Dominion board in matters that are of common concern. So that as Mr. Patton says we are working towards something that will be constructive and of benefit to the country, working towards a natural division of traffic according to its proper function.

Now, let us turn to the question of L.C.L. traffic. Since the war the L.C.L. business of the railway has varied between 2 and 4 per cent of their gross tonnage. And I should describe L.C.L. business thus; it is the little what is called package business, such as you see in express cars unloading at Ottawa every morning. The average rate of package is below 200 pounds. It is around 50 pounds. The average of all packages may be 200 pounds; and these are packages that go forward in that form quite distinct from grain in bulk, mineral products in bulk, and forest products in bulk, which are the carload business. Now, the experience of one of the railroads in the United States is that from handling their less than carload business it amounted to only  $3\frac{1}{2}$  per cent of the total tonnage but required 26 per cent of their freight equipment. And, 32 per cent of the damage claims have been paid on L.C.L. breakage. Obviously an inefficient way of handling freight.

*By Mr. Bertrand:*

Q. Are you suggesting that the railways should drop that type of freight?  
 --A. Mr. Bertrand, I would say that if the railways deliberately cut out non-paying traffic of the L.C.L. type and sat down as someone has suggested at a board with the transport operators it would place the Canadian National in an improved revenue position that would be startling; and a further result of such an act would be that instead of paying out money to handle this miserable little L.C.L. freight they would be able to cut out non-paying lines that they otherwise could not cut out, and you could make an accumulative saving that would be stupendous.

Q. The railways could not carry L.C.L. freight from Halifax to Vancouver?

--A. No. They do carry it to-day L.C.L., and of course they make money on it.

Q. The railways do?--A. Yes.

Q. But they could not stop doing it?--A. I am not suggesting that. Geographically the country divides itself into provincial areas. Take Ontario for example. Look at it as an L.C.L. proposition. You have southern Ontario highly industrialized and then you begin to get into an area of rocky country with a sparse population and meager transportation facilities all the way to the head of the lakes and beyond. There is a geographical L.C.L. short haul area, a medium haul area, in which unquestionably the trucks can function more profitably than the railways. The trucks would not be able to handle L.C.L. freight profitably from Montreal to Winnipeg. Nobody wants to send 200 pounds or 500 pounds of parcel freight that way. Then, you have the same thing in the west. You would have an area from Winnipeg say to Edmonton that might or might not be an L.C.L. area depending on road conditions. Then, you would have British Columbia, you would have the province of Quebec and you would have the Maritimes, or part of them—I am not sure how it would work out. So that looking at it broadly from the point of view of dividing the country naturally, this small traffic—and naturally it is called small, it is small traffic—this small traffic in the way of parcels I would say unquestionably is the natural business for trucks and not in any sense the business of the railways on the medium haul. Let me continue for just a moment—

[Mr. Lewis Duncan, K.C.]

*By Mr. McIvor:*

Q. How would that affect the employment of labour on the railways?—A. Well, there would be no doubt a certain percentage of reduction in staff. I cannot give you the figures. There is no doubt about that.

Now then, let us visualize it just for a moment. Someone was saying this morning that you start out with a car that is filled with 40 tons and it stops here and drops 10 tons, goes there and drops 5 tons; and so on until when it reaches Montreal it discharges its last 15 tons. Now, the Toronto-Montreal situation is not a typical situation with respect to L.C.L. freight in this province. You take a way freight that goes from Toronto to Lindsay and it starts off with a couple of cars or five cars and they are partially loaded, and it goes along slowly and it stops here and it stops there. It is a way freight, and it is dropping a little parcel here and a little parcel there. The same up Orillia way; or up to North Bay, or the same up to Owen Sound. All these way freights are the ones that at great expense carry a little bit of a parcel package on which the railways are losing a colossal sum of money. And I hope to show Mr. Bertrand, if I might just give a little illustration—naturally I have not sufficient time to go into all the details—but I will give as an illustration one item alone. The cost to the railways of a freight car in which to load 3 tons of this way freight stuff, because that is the average loading, a little over 3 tons—I will give you the average loading cost in Canada of this L.C.L. freight. A car costs \$2,500. At 5 per cent on its original cost you have an annual charge of \$125. Depreciation at less than 7 per cent amounts to \$155. Repairs, oil, brake-shoes, wheels, etc., \$100. A total for the year for the car alone of \$380; or, a dollar a day. Now, a freight car on the Canadian National system moves on the average of once every fifteen days.

*By Mr. Bertrand:*

Q. Do you give this figure as of to-day?—A. As of to-day.

Q. Of this year?—A. Of this year and under present conditions.

Q. In 1928 it must have been moving much more than that?—A. This is the railway figure which is used to-day.

*By Mr. Elliott:*

Q. Does that include car movement as well as load?—A. I could not say definitely as to that, I think it is the loaded movement. It moves on an average of once every fifteen days—although, there are some cars that are out on the road and continually moving up and down every day.

*By Mr. Bertrand:*

Q. This is the average?—A. Yes, the average for way freight service. If it moves once every 15 days, only twice a month, it costs you \$15 for that one movement of the freight car, because it is only moving twice a month and it costs you \$30 a month to operate your car. The average L.C.L. load is three tons. Dividing that into the cost of \$15 for one movement gives you a cost of \$5 per ton, and that works out at 25 cents per hundred pounds cost for the freight car alone. Now then, the railways in Canada—

The DEPUTY CHAIRMAN: Could you not skip some of these details? You asked for 45 minutes in which to make your presentation; both for yourself and the gentleman who is here with you. You have already been at it two hours.

Mr. JOHNSTON: This is all very interesting, Mr. Chairman.

The DEPUTY CHAIRMAN: It seems to me it is beside the question.

Mr. JOHNSTON: I think he should have time in which to give us this information.

The CHAIRMAN: Of course, I am at the disposal of the committee.

Mr. JOHNSTON: I would be in favour of permitting Mr. Duncan to continue and finish his presentation.

*By Mr. Young:*

Q. There is one thing in which I am interested, and it is this: what is the conclusion of your argument? What are you trying to show; that the railway companies would save themselves considerable loss if they did away with all this L.C.L. freight? In other words, they do not understand their own business as well as they should?—A. That is exactly the point, just as was said in the Senate yesterday. Mr. Fairweather said yesterday that it was an "instructed guess" when he told the Duff commission you could save \$35,000,000.

*By Mr. MacNicol:*

Q. Did I understand the witness to suggest that certain branch lines could be discontinued?—A. I am suggesting that that can be done. That is what the Senate is investigating now. Now, the railways in Canada were asked before the Chevrier commission to give their figures on L.C.L. freight, their costs, and we ran into an amazing ignorance; the vice-president had never even heard of the figures—although one can pick them up here and there. But in the United States where the railways similarly professed ignorance a great deal of clear thinking has been done not by but for the railways by the Inter-state Commerce Commission, and I have in my hand a report which runs to over 400 pages in which are one or two suggestions made to the Inter-state Commerce Commission by the head of the Federal Emergency Traffic Board, by the Federal Co-ordination of Transport, when they were discussing this question of L.C.L. freight. Let me read to you what it says at page 11 as to the condition in the United States in 1932 when the costs were lower there than they are now, and lower there than they are in this country where there is a greater density of population and traffic and where these rates are very much lower than they are in Canada. At page 11 it says,—

17. *Financial results of rail operations.*—Rail L.C.L. traffic of the United States as a whole, in 1932 yielded an average revenue of \$16.60 per ton originated. The average cost of handling this traffic, including only operating expenses and taxes, was at least \$20.73, a ratio of 125 per cent. In the same year the revenue received from L.C.L. express traffic was \$47.58 per ton; while for handling that traffic, expenses and taxes of the express and rail companies aggregated \$53.62 per ton, a ratio of 113 per cent. Therefore, in 1932, rail merchandise traffics failed to bear their full proportion of total operating expenses and taxes by \$4.13 per rail L.C.L. ton and \$6.04 per express ton, or about \$80,000,000. In that year out-of-pocket cost of performing L.C.L. freight service was at least \$11.70 per ton, the out-of-pocket expense ratio, 70 per cent. The out-of-pocket cost of handling express traffic (including rail out-of-pocket costs and all expenses of the express company, except rents) was \$35.89 per ton, the out-of-pocket operating ratio, 75 per cent. The failure of rail merchandise traffic, as a whole, to pay its full share of transportation costs, is largely due to the expense incurred in maintaining redundant rail organizations, facilities, and services resulting in unnecessary duplication of station facilities, billing, platform handling, concentration and distribution, transfers enroute, and in a multiplicity of services and schedules. Now, I want to give you a number of examples in this province of what utterly ruinous methods are being followed by the railways in order purely to increase tonnage. Take a shipment of 200 pounds of millinery in cardboard boxes—bonets or hats, trimmed—from Toronto to St. Catharines. The

[Mr. Lewis Duncan, K.C.]

shipment is bulky, occupying space, requiring considerable handling. It may be valuable. Its value might be any figure you name, depending on the hats. In 1927 the railway charge for the rail haul alone was \$2.82.

*By Mr. Edwards:*

Q. For what?—A. I am speaking now of the 200 pound shipment.

Q. 200 pounds?—A. Yes. All these illustrations have to do with 200 pounds, because you divide 2,000 pounds by ten. I think that is easier than to give it the other way. The railways got \$2.82. That is what is known as triple first, that charge.

*By Mr. Howden:*

Q. You say the railways lose or charge \$2.82—which?—A. They get \$2.82.

Q. They charge that?—A. Yes. That was not excessive remuneration when all the elements of expense are considered. But to make delivery from the factory in Toronto to the warehouse in Saint Catherines, it was necessary at that time for the shipper to pay for cartage in addition; and the Toronto charge for picking up 200 pounds of that bulky nature was forty cents; the Saint Catherines charge for delivery was thirty cents, or seventy cents altogether; so it cost the shipper \$3.52, and the railways got a gross of \$2.82 for terminal charges, billing expenses, overhead, taxes and all the incidentals. There were delays in the movement, as you know, and the service was not good; and the roads developed and people began to use trucks. What did the railways do? They had never liked L.C.L. freight, and they had always said that it was unremunerative. They had plant and equipment which I suggest was functioning inefficiently in handling as compared with the trucks. Did they give up the business and accept the losses? No. Having been transportation monopolists always, they wanted to remain transportation monopolists. In one case the taxpayer paid. What did they do? In 1937, first of all, they absorbed the pick-up and delivery cost; and they introduced a service to compete with the trucks, going to the door in Toronto and taking it to the door in Saint Catherines; and they reduced the rates as well. Now the railways get a gross of ninety-four cents for 200 pounds of women's hats in boxes, pick-up and delivery included. Based on American experience the cost to the railroad of the movement of 200 pounds, for which it would receive ninety-four cents revenue, would be approximately \$1.78.

*By Mr. MacNicol:*

Q. May I ask what the witness means by "based on American experience?" Are those figures you are quoting not Canadian figures?—A. I have given the Canadian figures, yes, based on the American inquiry, the Merchandise Traffic Report.

Q. What would the traffic from Toronto to Saint Catherines have to do with the American figures?—A. They are completely comparable—perhaps a little more expensive than the traffic in the United States where this study was made. Geographically it is the same story.

*By Mr. Elliott:*

Q. Have you got the truck charge on that same commodity between the same points?—A. Well, the trucks—at first they were adhering to the railway charges, and then some truckers reduced them and you could not say there was uniformity at that stage. The trucks were more efficient.

Q. The reduction was really caused by the truck service, first of all?—A. I would say so; the trucks coming in and finding they could handle that more cheaply, gave the public the benefit of that service, and the railways then followed them down.

*By Mr. Mulock:*

Q. What was the truck charge in 1937?—A. I will have to ask someone. It has followed the railway down, I take it. I am only dealing at the moment with the railway story. That showed a deficit of eighty-four cents per the shipment or \$8.40 per ton. But that is not all. In the summer the C.N.R. operates a line of boats between Toronto and Port Dalhousie; and in 1937 the C.N.R. issued tariff C.T.28-1 effective 14th June, 1937, expiring on 19th September, 1937; and at page 355 it provides pick-up and delivery service from Toronto West, Leaside, Mimico, New Toronto to Saint Catharines, Thorold, and Port Colborne or the reverse direction; and the rate was ninety-five cents per 100 pounds for the shipment of 1,000 pounds or less to Saint Catharines, with a minimum charge of fifty cents. The movement was by boat between Toronto and Port Dalhousie and by rail from Port Dalhousie to Saint Catharines; and then they put it on trucks and delivered it at the door.

Now, under that tariff, a shipment; as I say, of millinery of great value, the insurance of which alone would be worth something, is picked up anywhere in Toronto or its suburbs by trucks, taken down to the docks, unloaded, put on the boats, taken across by boat, unloaded, put on a train, unloaded, put on a truck, and delivered at the door all for fifty cents! Eight handlings, involving every time 200 pounds, eight times 200 pounds, or 1,600 pounds—getting on for a ton—all for fifty cents!

*By Mr. Howden:*

Q. And you estimate that the railway lost how much on that?—A. Well, I will come to that. In a recent case—I am not only dealing with this report—but in a recent case before the Interstate Commerce Commission you have a comparable situation there—the railways using their stockholders' money or the public's loaned money with uneconomic results. The case is called "pick-up and delivery in official territory." The decision was handed down on the 13th of October of 1936, and the commission there say, at page 479, which you will find in the reports of the Interstate Commerce Commission of 1937:—

The results of the Pennsylvania's study of platform and clerical costs at 60 of its most important freight stations, which are in evidence, afford what is perhaps the most reliable information presently available concerning actual terminal costs of handling less-than-carload traffic in eastern territory. The average platform cost of \$0.5707 per ton, multiplied by 2.37, the average number of handlings accorded this traffic—

It does not go in ton lots; it goes in less-than-ton lots.

—gives a total platform cost of \$1.35 per ton. Since the average clerical cost is \$0.5559 per ton, the total cost at point of origin and destination would be \$1.11 per ton. The combined out-of-pocket cost would therefore be \$2.46 per ton for platform and clerical cost. As before pointed out, the Pennsylvania's average trucking cost for either pick-up or delivery is \$1.70 per ton, and for both services it would be \$3.40 per ton. Adding this figure to the platform and clerical cost of \$2.46 per ton produces the sum of \$5.86 per ton, or 29 cents per 100 pounds.

And on the next page they say:—

This cost evidence indicates unmistakably that much traffic on which pick-up and delivery is accorded at existing rates is being handled at a direct out-of-pocket loss which must be made up by the revenue from other kinds of traffic. It also appears that such a situation can hardly fail to be detrimental to the highway motor carriers with whom respondents are in competition. The evidence in this record indicates that the economy and efficiency of the motor-truck in the shorter distances,

[Mr. Lewis Duncan, K.C.]

for example, up to 100 miles at least, has been definitely established, as shown by the small percentage of shipments for the shorter distances which the railroads have been able to recapture through pick-up and delivery. The performance of rail service at less than cost necessarily throws an unfair competitive burden on motor carriers and is not in harmony with the spirit of the Motor Carrier Act.

That showed that these three services alone, of platform handling, clerical billing and pick-up and delivery cost was 58 cents as compared with the 50 cents that the railways in this province are getting for all their services on that particular movement.

Now then, I want to show you the last graph. All the figures on this graph represent 200-pound movements; and we have on the right-hand side the figures from nothing to \$3, showing costs. Across the top is the distance from Toronto to Montreal, with intermediate stations and mileages; and interpolated are the distances of other points from Toronto, such as Orillia—which, although they are off the main line, are interpolated at the proper points in their mileage. Just above the \$2 mark you see a line which runs right across. That is 1932, United States average cost (per ton originated, Merchandise Traffic Report, page 11), from which I read. That is the average cost for an average shipment, of average length of haul, and that can only be taken as diagrammatic; that is for a 200-pound shipment. Below this you find, above the \$1 mark, 1932 United States average out-of-pocket cost. These are the extra costs directly attributable to the carriage of l.c.l. freight.

*By Mr. Bertrand:*

Q. Are you talking of the railways or trucks there?—A. These are all railway figures.

Q. They are railway figures?—A. Yes, completely railway figures. Now, gentlemen, let us look at our millinery and cardboard boxes. The graph should have underneath it there the figure "bonnets or hats, trimmed" to make it fit exactly with the 1927 railway tariff. You see, they were getting \$2.42 which, assuming that was the average haul, would apparently give them more than their average cost of handling,—something that looks like a profit. In 1927 perhaps the railways knew their business and knew how much it cost them, and they fixed that figure accordingly. I show below, right below "B-1" the 1937 figure of 79 cents. I gave you a few moments ago 94 cents. That is what they get. We deducted 15 cents as the pick-up and delivery cost, to show what the railways get net for this movement. That is being more than fair to the railways, because if their figures were produced, I think you would find it costs them more than 25 cents to pick up 200 pounds in Toronto and deliver it by truck at the other end. But there is 79 cents, which hits the line which is marked "Group 1". Those are the higher-priced commodities for less-than-carload traffic; and I should say there are four groups, one, two, three and four of less-than-carload traffic, the highest being group one; and the average of all the traffic handled being represented by group 3. Speaking generally, that is the revenue that the railways get from the four groups, on the average. Our 79 cents is definitely higher than it would be if you dropped it to 50 cents; and if you subtract the 15 cents from the 50 cents you would have 35 cents, which is what they get for their boat handling—very much below the out-of-pocket cost of \$1.17. Under A-1 we have 1927 charge of \$1.10 for handling 200 pounds of screens, not nested. These are window screens and door screens, not perishable products. They were handled under group 3 then and still are, and to-day they get 39 cents for handling them from Toronto to Oshawa. My suggestion is a definite loss, and no particular reason why they should handle a 34 mile haul; the railways, if they were looking to profits rather than tonnage, would confine themselves to the longer hauls for less-than-carloads. Mr. Bertrand was asking me about these



light weight things. In furniture I have some chesterfields. In 1927 the railways got \$2.70 for handling a 200 pound chesterfield or a combined chesterfield and suite from Toronto to Kingston, 161 miles, set up and wrapped in crates. To-day they get \$1.15 for handling the same article. Batteries with acid, that is motor batteries, were classified in 1927 at a rate which brought in \$1.51. To-day they have been dropped to the fourth class and they get 79 cents for taking 200 pounds batteries from Toronto to Ottawa, or the other way round, the whole movement.

*By Mr. McCann:*

Q. How much of that is offset by reduction in cost to the transportation companies, particularly the road trucks?—A. In getting cheaper batteries?

Q. Over ten years.—A. I am not sure, I do not know.

Q. You are comparing 1927 with 1937. Everybody knows a truck to-day which costs \$2,000 would probably have cost \$4,000 in 1927.—A. Yes. I am not saying there are people who are getting the benefit of what the taxpayers are paying for. Now the only other observation I have to make on this is to say that if group 3 is the average revenue producing group for l.c.l. traffic, it shows at present that distance from Toronto to Montreal, 334 miles is bringing in less than the American experience of out-of-pocket cost; so that I suggest all the l.c.l. traffic carried in this province is being carried at a loss. I am not speaking of the traffic that goes to the west from Toronto to Edmonton by rail.

*By Mr. Isnor:*

Q. You are comparing the 1932 American figures with 1937?—A. I think that comparison is eminently fair to the railways because we have had labour advances in prices since 1932 which would certainly boost the price.

Q. Is there any particular reason why you do not compare the same year?—A. No, because the American traffic report—

*By Mr. Johnston:*

Q. Can you get comparable figures from the Canadian railways?—A. The railways before the Chevrier commission said they had never heard of figures.

Q. When they set their rate it is just by guess, or competition, probably I should say.—A. That is the inference; I would say they produced people before us who may tell us what figures they have got, but the vice-presidents were there and they said they had never heard of such figures. I would hope that the Canadian railways, using the taxpayers money, would have figures, but in the absence of figures one has to refer to comparable conditions, and a very important inquiry, which, of course, the railways will attack, if you give them the opportunity. That has been followed up by decisions in this interstate commerce pickup and delivery; one can see the number of people who appeared. There were two bodies of representatives appearing before the commission.

Q. I suppose you would be very pleased if they produce their figures to compare with what you have stated?—A. Quite. They know our figures. We have given our figures to the Chevrier commission. They know them themselves. They run trucks. There is no secret about the cost. Now, I shall just say there—

*By Mr. Isnor:*

Q. Before you leave that: one of the members asked the pickup rate or the trucking rate.—A. From?

Q. Make a comparison with 282.—A. May I ask one of the trucking representatives who is here to answer that? May I ask him that?

Q. Yes.—A. From where to where?

[Mr. Lewis Duncan, K.C.]

Q. Compare it with the other.—A. From Toronto to St. Catharines?

Q. Yes.—A. 200 pound movement?

Mr. RODANZ: It is worked the same as the railways, classified 1, 2, 3, 4.

*By Mr. Isnor:*

Q. Then you get the same rate as the railways?—A. I suppose one has to meet competition when it comes.

*By Mr. Elliott:*

Q. The railways have to meet the truck competition?—A. For the purpose, we suggest we can carry more cheaply and that the railways should not seek traffic at prices below their out-of-pocket costs. It is not in anybody's interest to bankrupt by the taxpayers' money a medium of transportation that has been doing a good service for the public.

*By Mr. Hamilton:*

Q. Is the truck rate a paying rate, the one that is based on the railway rate from St. Catharines? Does it pay the truck companies to do it at that rate?—A. I will have to ask Mr. Rodanz that. Does it pay?

Mr. RODANZ: Yes it does, a very profitable business.

Mr. ISNOR: 79 cents.

*By Mr. MacInnis:*

Q. If the railways went out of the l.c.l. business is there any assurance the motor trucks would not raise their rates?—A. I think your answer would be this, that if there is a provincial board established it would be interested in seeing that the rates are not too high and secondly, you have how many truckers on the Toronto—St. Catharines route?

Mr. RODANZ: Nine or ten of them.

The WITNESS: Between Toronto and Hamilton I think 58, and it is difficult to get an agreement as to rates there, although they have been asked by the Chevrier commission to agree on rates. The idea seems to be to stabilize rates at a price which will give a decent profit and enable them to pay their men a decent wage. The railway competition in some cases has resulted in underpayment of personnel.

*By Mr. Howden:*

Q. Anyway, you are seeking to form a licensing of these trucks which will establish rates, are you not?—A. We are seeking the filing of rates. The shippers, manufacturers' associations want all rates to be filed; then they will be publicly known and there won't be discrimination.

Q. You represent interests that are satisfied to have an established rate?—A. A uniform rate that is fair.

Q. From which they cannot vary?—A. Well, subject to future developments as to reduction in costs and things like that; reasonably stable.

Q. If one varies from the rate, they would all vary from it?—A. Yes; a reasonably stabilized rate.

*By Mr. Elliott:*

Q. In connection with the rate, can you give us a rate on a similar commodity from Toronto to a non-competitive point of a similar mileage to St. Catharines?—A. I will have again to confer with Mr. Rodanz. What does that mean? I do not know that there are so many non-competitive points.

Q. This would be a competitive rate, no doubt?—A. Yes; but I hope they will correct me if I am wrong; as I understand it the trucking rates are based on a progressive scale of mileage. If, for example, someone is running from Toronto to Orillia and he has to drop off at a place that is off the railway line, the rate would be proportionate according to distance.

Q. That is not always the case. I know the rates for non-competitive points are higher than for competitive points.—A. You know more than I do, then; I am not informed as to that. That would be a matter for provincial regulation.

*By Mr. Howden:*

Q. May I ask this question on that point. Have you a settled and established rate amongst the truck freight handlers for distance on highways? Do you abide by the same rate or is it a competitive rate amongst highway truckers?—A. I think the answer to-day is it is very largely competitive rates. They are trying, of course, to get the operators to agree on a settled rate.

Q. There are no agreements amongst highway operators?—A. With only one exception to my knowledge. An agreement has been arrived at between the people on the St. Catharines and Niagara peninsular line which, I think, is signed by eight out of the nine. That was at the suggestion of the Chevrier commission, and only because the Chevrier commission suggested it was it at all possible to get them to sign up.

Well, now, then the railways say that anything in the way of added traffic, no matter whether it is below cost or not, is to their advantage, and that also is dealt with in this same report of the 13th October, 1936. Mr. Eastman says there: "In the competition between railways and motor carriers we shall frequently be met with the contention that reduced rates are justified, and lawful, if they will yield some margin over the 'out-of-pocket' expenses incurred in carrying the added traffic which would not move except for the reduction." That is on page 489. I am skipping the bottom. On page 490 I quote the following:—

The traffic which is carried on margin over out-of-pocket expenses on the added traffic theory does not, of course, pay its share of the full costs of operation, to say nothing of taxes, fixed charges and profit. The burden must be borne by other traffic. It follows that the added traffic theory can be sustained as in the public interest only in one conceivable way, namely, by proof that through its application the traffic which must provide for the full costs, taxes, fixed charges, and whatever profit is earned will have a lesser rather than a greater burden to bear.

Then on page 492:—

Will the net and ultimate results be better in the public interest, in the case of a disappearing traffic, if it is revived and sustained through reduced rates made on the added traffic theory, or if it is allowed to go to a competing form of transportation which is inherently and economically better fitted to handle it?

And at the bottom of page 492:—

Discussion of the added traffic theory could be expanded, but enough has been said to show the doubts, difficulties, and dangers which are attached to it. My personal view, for what it may be worth, is that in this theory lies the greatest present threat to the establishment and maintenance in this country of a sound, stable, and well-co-ordinated system of national transportation which will use each type of transportation agency to the best economic advantage.

Now, then, since 1927 the C.N.R. has carried 13,000,000 tons of l.c.l. freight. I do not know the deficit figure; only the railways can tell us, and I would like to examine, or have their figures examined, if produced, by an independent audi-

[Mr. Lewis Duncan, K.C.]

tor. But if the deficit is \$10 a ton that works out to a deficit of \$130,000,000 alone on the l.c.l. traffic since 1927. In the same ten year period all the railways of Canada carried 30,000,000 tons of l.c.l. traffic, and the actual out-of-pocket loss is a matter of conjecture; but at least it can be said that it is providential that the railways have lost part of their l.c.l. business to the trucks. Even railway executives should have been satisfied. Evidently not so, for the agreed charge provision has been drafted to enable them to recover that non-remunerative traffic. If they have lost that traffic while losing money on it they can only win it back at still lower rates. The agreed charges provision appears to be designed to permit the railways to make an agreement with a shipper to carry the whole or any portion of his traffic at a figure which will conceal an uneconomical charge on the l.c.l. traffic. Such an agreement will represent a subsidy by the railways to those shippers who are fortunate enough to secure agreed charges contracts. Obviously, I suggest, such an agreement is not in the interests of the public or of the railways. It is a species of loss leader, the loss being concealed by the aid of an Act of parliament. The railways are not the only people who have done this; the express companies have done the same, and we now have the perfectly startling result that the express companies which used to carry a double first and a triple first are now quoting rates at less than freight rates.

No wonder Mr. Fairweather said yesterday in the Senate that the C.N.R. is very much concerned as to whether it will or will not amalgamate its freight and express traffic. I give you an example. From Belleville to Chatham the railways are carrying shirts, a distance of over two hundred miles, for seventy-five cents a hundred pounds. Their freight rate is seventy-nine cents a hundred pounds—four cents more. It is Alice in Wonderland.

From Belleville to Hamilton on shirts the freight rate is 65 cents a hundred pounds. The express rate is 50 cents a hundred pounds. Anything to beat the trucks and put them out of business.

Kitchener and Waterloo to Toronto on trunks, leather bags and suitcases, the freight rate is 43 cents a 100 pounds and the express rate is 35 cents a 100 pounds. The out-of-pocket costs of handling freight as we have it in the merchandise traffic report is \$6. The federal co-ordinator found that the revenue received from L.C.L. express traffic was 47·58 per ton. Well, of course, at a 50 cent rate per 100 pounds they are not getting 47·58 per ton. They are only getting \$10 a ton. For handling that traffic, expenses and taxes aggregated \$53.62. The out-of-pocket costs for handling express traffic were \$35.89. So on the shirt movement they are losing \$25 a ton.

Further, the express companies are in direct competition with the post office on small parcels up to 25 pounds in weight.

*By Mr. Bertrand:*

Q. Or vice versa.—A. Or vice versa.

Q. Because the express companies carried those parcels before the post office started carrying them?—A. I know, but I am thinking of national co-ordination of traffic saving expenses when we are being pressed by taxes.

Q. While we are at it?—A. Yes, while we are alive. Take a parcel of two pounds from Toronto to Vancouver. The post office will carry it for 24 cents, but you have to take it to the post office. I do not know whether it is delivered at the other end or not.

Mr. PARENT: In some places, yes, and in other places, no.

The WITNESS: Yes, but the express companies will carry it for 24 cents, and they will go out and pick it up and deliver it at the other end. Surely, when we are considering the great question of transportation for this dominion the axiom ought to be not duplication and wasteful competition, but that there

should be some competent enquiry which will take some little time into what can be done in the way of co-ordination.

*By Mr. Hamilton:*

Q. Does service not come into the picture to some extent?—A. Yes.

Q. Is it not a real advantage to be able to leave your own home coming to Ottawa, phone up and ask the express company to take a parcel, have them go to your home and then find the parcel at your hotel about the same time that you arrive?—A. I quite agree.

Q. You cannot do that through the post office.—A. I am not suggesting one solution or another, I am only saying that there is overlapping, and I am suggesting the possibility of saving.

Now, how do these express charges operate in England? I have one example which is very vivid. Our Act is definitely modelled on the English Act. On Wednesday the 21st of October, 1936, an application was made to the Railway Rates Tribunal for agreed charges.

Application for approval of a charge agreed by the London and North Eastern Railway Company and the Midland and Great Northern Joint Committee with Messrs. Cranbux, Limited. Mr. H. A. Chapman appeared for the railway companies. Mr. Chapman said to the board, which consisted of three persons:—

Mr. CHAPMAN: This application relates to another new case, sir. I do not think there is anything out of the ordinary which I ought to point out on the agreement. The conditions are quite usual; you have had similar ones before you on many occasions. The agreed charge is to operate for one year from the 1st July of this year.

Then Mr. Alfred John Rice was sworn. He was the accountant for the railways, and he was examined by Mr. Chapman:—

What is the object of making this agreement with the trader? There is a large proportion of his traffic on the road and it is with the object of securing on to rail and of guaranteeing it to rail that the agreed charge was made.

Did you make any tests? Yes. We took a test of two months, December, 1935, and January, 1936.

What was the average charge per ton for the rail portion of the traffic? 150s. 4.5/8d. per ton.

And for the road? 58s. 1.15d.

What was the percentage of the road traffic? 88 per cent of the whole.

What was the combined average charge per ton? 69s. 3.23d.

On that did the companies agree with the trader the charge before the court? Yes.

That is, 69s. 3d per ton? Yes.

Would exceptional rates have achieved the object you have already mentioned? No.

On the revenue position. Will there be an increase in gross revenue? Yes, a considerable increase.

Will there be any additional outlay? There may be a small additional outlay but it is only a very small proportion of the increased revenue.

Therefore in the view of the companies, will there be an increased net revenue? Yes.

I call attention to the fact that the questions read: "Will there be an increase in gross revenue," not net profit. Then the judgment, which is given by the president.

[Mr. Lewis Duncan, K.C.]

PRESIDENT: This is an application by the London and North Eastern Company and the Midland and Great Northern Joint Committee for the approval of a charge agreed with Messrs. Cranbux, Limited, of Norwich, for the carriage of 'Odol' toothpaste, tooth-powder, denture powder, solid dentifrice, and mouthwash, and advertising material, from the Norwich Goods stations to all Goods stations and depots in Great Britain.

The charge which has been agreed is 69s. 3d per ton, being the combined average of the road and rail charges paid by this firm in a period of two months when some 88 per cent of the firm's traffic was being carried by road.

We are of opinion that the object to be secured by the making of the agreed charge could not adequately be secured by the grant of exceptional rates under the Act of 1921, and having had regard to the effect which the making of such charge is likely to have upon the net revenues of the railway companies concerned we approve the agreed charge of 69s. 3d per ton (minimum charge per consignment as for 28 pounds) for the period of one year ending on the 30th June, 1937, subject to the conditions which are set out in the agreement.

That is the way it operates in England; they go out and bargain with some one. It will operate the same way here, gentlemen. The railways will go and bargain with the bigger manufacturers, those whose business is good. They know which are the solvent motor carriers. There is nothing to prevent them putting these carriers out of business by a species of negotiations. They get the traffic just because it is on the road, just because they want it, and there is no test at all as to whether the railways in this country would go deeper into the red and ruin hundreds of people throughout the country who have invested money in this business.

*By Mr. Bertrand:*

Q. To come to this conclusion you would have to admit, or, rather, you would have to take it as if the officials of the railway were going to cause people to lose money in order to get more money for themselves?—A. What have they been doing?

Q. Give us three examples?—A. I can give you hundreds, I can give you thousands. There is no question about that; they have been doing it.

Q. You have given us these examples in Ontario where the roads are open in the winter time?—A. Yes.

Q. Southern Ontario is practically the only part of Canada where the roads are open all year round, and if you had taken any other section, like the province of Quebec, or places in the west, you would have to conclude that the highway traffic was able to carry on only in the good seasons, and that the railways according to their charter, would have had to carry the traffic whether they were losing money on it or not?—A. The railways do not have to carry by their charter in winter when there is no competition at less than remunerative rates.

Q. But they are being checked up by the Board of Railway Commissioners, and they cannot increase their rates?—A. I do not think the railways have had any difficulty in putting rates up for this type of traffic.

Q. If there is such a difference between what it costs and what they are paid, they would have trouble, I think, in coming before the Board of Railway Commissioners to have their rates increased to make it a paying business?—A. During the evidence given before this committee on the 5th of May, Mr. MacNicol asked this question: "May I ask if the opposing carriers will have the opportunity of presenting their arguments as well?" That is, before the railway board. Mr. Rand or Mr. Walker, whoever it was, answered, "Yes, sir." Then:



*By Hon. Mr. Howe:*

Q. And no agreed charge shall become effective until all parties concerned have had an opportunity to criticize and register their objections?—A. Precisely.

Well, with the greatest respect to Mr. Rand or Mr. Walker, whoever was speaking then at page 40, as Mr. Patton has pointed out, the motor carriers are deliberately excluded from access to the Board of Railway Commissioners.

*By Mr. Hanson:*

Q. They asked to be last year.—A. May I make this distinction: If you have a federal court, like the Exchequer court, any citizen of Canada who is injured can go to the federal court even though his property and civil rights are within provincial jurisdiction. But if something happens under federal jurisdiction of which he complains, say, a boat runs into his wharf, or something of that nature, he goes to the federal court. Now while the British North America Act says, as now interpreted, that motor highway traffic is not a subject for dominion legislation, my suggestion is that if you do give the railways power to do something that will hurt provincial motor traffic, you should at least give them access to the court at Ottawa which is established to look into that matter. They should have the right to complain that they are hurt, and there is nothing inconsistent, I suggest, in that.

*By Mr. Howden:*

Q. Are they prevented from doing so at the present time? Would they not automatically have the right to appeal to that court?—A. No, not under this new Act. It takes it away from them, and by a very careful piece of drafting. You see, "carrier" is defined in section 2, subsection D as, "any person engaged in the transport of goods or passengers for hire or reward to whom this Act applies and shall include any company which is subject to the Railway Act." Then you turn to section 35—

*By Mr. Bertrand:*

Q. Pardon me, but last year the highway carriers asked to be left out of this bill.—A. The constitution made it necessary for them to be left out. All they are asking now is that in our curious constitution, as recently interpreted, when you are passing legislation at Ottawa which may affect them that you set up a board to look into the agreed charge.

Q. You want to have the right to appear?—A. Just the right of access.

*By Mr. Howden:*

Q. Will you follow out that definition? You started in with the definition of carrier.—A. Yes. I have given you the definition of carrier and then I was going on—

Q. You were proposing to show that the highway carriers were not included in the Act.—A. Section 35, subsection 4 reads:—

On an application to the board for the approval of an agreed charge any carrier shall, after giving notice of objection, be entitled to be heard.

Q. "Any carrier" will not include a road carrier?—A. No, because he is excluded by this definition, and it should be enlarged, as Mr. Patton suggests, in the definition section to allow any road carrier to object if the railways are carrying at less than cost. Nobody else is going to be interested in saving the foolishness of the railways.

*By Mr. McIvor:*

Q. You suggest the definition of "road carrier" should be amended?—A. Yes, as Mr. Patton suggested this morning.

[Mr. Lewis Duncan, K.C.]

Mr. BERTRAND: I think it would be better if there was a section added to the Act giving the right to compete.

The WITNESS: I agree with that. I am sorry I am taking up so much time. Then, at page 53, Mr. Walker, counsel for the C.P.R. says:—

If it means, on the other hand, that the railway, by means of agreed charges, will carry traffic at rates ruinous to the truckers, it is simply nonsense, because the board would not permit this waste of railway revenues even if the railways were foolish enough to attempt it.

Mr. HOWDEN: I asked that very question this morning and someone answered me in the negative.

The WITNESS: I suggest there are three underlying points in that assumption, each one of which is inaccurate. The first of these is that the railways have not carried goods at ruinous rates. Exhibit 3 shows definitely what the agreed charges are, and they are to carry traffic at still lower rates, because it was said in the introduction of the bill that this is so the railways could give a lower all 'round rate. It is aimed at getting back this traffic. It is aimed at getting traffic from us.

Mr. ISNOR: Mr. Walker I think made that observation when he was making a comparison of rates which must be established by the railway board in connection with competition.

The WITNESS: Yes.

Mr. ISNOR: I think that was when he made that observation.

The WITNESS: Oh well, they have been putting these rates in class three, all competition. It was bad enough under their old system. They have been putting in ruinous rates. Now, an agreed charge is being put in which will conceal the real situation as to cost, because the rate will be given on a tonnage basis, on an all-Canada basis, or like Woolworth's, on 4 per cent of their gross payments out for goods. You can never then have the Transport board investigate the thing to find out if they are carrying L.C.L. traffic at ruinous rates, and losing money for the people of the country.

*By Mr. Isnor:*

Q. Would not your firm enter into a contract at 4 per cent of the invoice price of goods?—A. That all depends. Might I just say this at that point, it is said that we are able now to do what the railways want to have done by the agreed charges; with the greatest respect, if you will look at the facts, that is not quite so; because the railways by the agreed charge will go to the Canada-wide dealer shipping from coast to coast—for one example only—and will make a deal with him for all of his business from one end of the country to the other. Trucks cannot compete for Canada-wide business.

*By Mr. Johnston:*

Q. That would include water, rail and truck transportation?—A. That would be included also. We can only handle Ontario business, and any big manufacturer who has a lot of L.C.L. Ontario business can sign up. That is why the railways want them to sign up. They want to reverse the policy to what it was in 1903.

Now then, the second misconception was that the railways would not be foolish enough to waste railway revenues. My submission is that exhibit 3 definitely proves they have a studied policy of wasting railway revenues to get business from us.

*By Mr. Bertrand:*

Q. Why could you not argue this essential truth—or supposed truth—that the officials are going to get all of that business, whether it is paying or not,

so as to give them a chance to compete with the highway trucks wherever it is possible to do that—suppose they have no conscience at all?—A. Mr. Bertrand, if I might ask you a question; if you were laying out a sound transportation business for Canada with all these different types of transport would you not say that within the area in which the truck with its small investment could serve people more cheaply than the railways that it would be to the interest of all concerned that they should have that business and that the railroad should keep out of the field?

Q. On the condition that the railways are forced to do the same thing, and that there is no unnecessary duplication.—A. You could easily make that a law.

Q. I do not say that this bill is the best thing that can be passed, but taking into consideration the constitutional rights of the provinces I do not think we can do anything better than to pass this for the time being?—A. Perhaps not. Now then, the last misconception is that the board will prevent the wasting of revenues. The board has had thousands of cases of competitive tariffs filed before it which have been cutting rates. They have had thousands of cases and no one has complained; the shippers did not complain and the railways did not complain, and the trucks have never taken a case to the board on that in the past being busy with their problems and trying to keep enough money in the treasury to keep them going rather than embarking upon expensive inquiries against the railways. The board has not disallowed one in the thousands of competitive tariffs filed, and my submission is that the board is no more likely to disallow bad rates in future; particularly because the agreed charge will conceal the loss for one thing. And for that reason with great respect I submit if this legislation at all is to be considered it should be on the basis that the Act should be amended to cast the onus on the railways of producing figures to the board to prove that any rate that is complained of as unreasonably low does show them a profit; and that can harm nobody. You don't want the railways surely losing money on any traffic. You have an expensive set-up in the railway board now. It is very busy and it might need some more personnel; but surely that is the object, to determine on any of these complaints that the rate is unreasonably low, and for this reason I suggest it is doubly important. There are many people now who have invested their money in this new form of transportation on the faith of the legislation of Canada giving them a fair shake. They have employed many people, and they have got a rising tide of employment that is all to the good. Nothing should be done in the way of legislation which would enable the C.P.R. or C.N.R. to use its financial strength to destroy here and there the few key people who have invested \$500 or \$1,000, and so get back the transportation monopoly that the railways have enjoyed in the past.

*By Mr. Bertrand:*

Q. Now, Mr. Duncan, in all of your argument you have said nothing at all about the losses the proprietors of the trucks have incurred through low tariffs?—A. You mean, low rates—perhaps brought about by themselves and perhaps brought about by the railways. I am sorry to be taking up so much time.

The DEPUTY CHAIRMAN: Might I ask if you have prepared any specific amendments to cover the three points (a), (b) and (c) of your submission?

The WITNESS: I have not, sir.

The DEPUTY CHAIRMAN: You might perhaps prepare specific amendments which you think would cover your case to be considered with the other amendments which have been proposed.

[Mr. Lewis Duncan, K.C.]

*By Mr. McIvor:*

Q. Would you tell me before you go why you say the agreed rate will conceal the rate to competitors?—A. It would conceal from the railway board the question of whether they were carrying l.c.l. freight at a profit or loss.

Q. You say it would conceal that from the railway board?—A. Yes.

Q. And that it ought to be advertised—made public?—A. Supposing, following the English example (which I read), the railway company should go to a large manufacturing concern and give them a rate for all of their Canadian business including all their l.c.l. at \$3 a ton.

Q. Yes?—A. There is no way of telling how much of the l.c.l. traffic they would be carrying at a loss.

Q. I thought that had to be submitted to the railway board for their approval?—A. Just in agreement form. With the clear proof that we read in this English case they could, under that \$3 rate deliberately go out and destroy everybody in that range of trade, because they have not got to adhere to any price. They would just go out and take the business. They have taken the business, critical business, from the common carrier. Now, the common carrier is the man who is serving many people. He is able to serve the little man who has a 200-pound package a week because he has a considerable volume of business from the bigger man. The bigger man is approached by the railways because the railway has found out that William Jones, the common carrier, mainly depends on customers A; B and C; and the railways knock them out.

*By Mr. Johnston:*

Q. What you suggest is that the railway should show whether this is being carried at a loss or a profit?—A. We want them to publish their l.c.l. package rate cost figures before the board.

*By Mr. Howden:*

Q. There must be something about the bill I do not understand then, because I thought they had to be published with the board. How can a man protest unless he knows something about the rates?—A. That is what we are trying to get at. Anyone who has any knowledge of the railways, who knows anything of the ingenuity of legal departments, soliciting departments, not to mention the directors of this company and that company, will admit that it is unquestionably the broad road back to railway monopoly through the medium of the destruction of truck competition. Now, I submit that is not in the public interest.

*By Mr. Bertrand:*

Q. In connection with the agreed charges and the concealing of their costs because they give a general tariff, does not the highway carrier to-day conceal his costs too? I heard it suggested that such is the case.—A. That is something which should be improved.

Q. In the brief which was given to the members and sent out by the Automotive Transport Association, Mr. Parent the assistant traffic manager of the E. B. Eddy paper company said that they were one of the largest shippers to southern Ontario and they use rail, water and highway transportation; and he said, our competitors know what we pay the railways when we ship by rail; they think, they know what we pay when we ship by boat; and they do not know what we pay when we ship by truck.—A. Mr. Bertrand, you are a lawyer and a very eminent one; may I put this to you: If you have a group of people who are reasonably good but who do occasionally get into a game of stud poker, and who occasionally may put something up on a horse, and some of whom may occasionally take the odd cocktail—you see, I am speaking of these very wicked people—

Mr. JOHNSTON: You are not speaking of lawyers.



The WITNESS: No, I am speaking of these people—and they have some opposition. Is it right that their opposition should put them all out of business because some of them do what some of the others do not want them to? That would seem to be a ridiculous proposition. There are troubles among the truckers, but we are trying to clear them up. We have to do it in the provincial field; and just because we have not yet reached that stage of perfection in which the railways say they are is no reason why they should hold a loaded blunderbus at our heads aimed and ready to blow us off the map.

Mr. BERTRAND: As a lawyer you are able to magnify the results of that.

The DEPUTY CHAIRMAN: We are all very thankful to you for your very illuminating address, Mr. Duncan.

Witness retired.

The DEPUTY CHAIRMAN: Now, we have a representative of the Hamilton Chamber of Commerce present and he wants to leave to-night. Is Mr. Rheaume present or Mr. Hushion? If not, I think we will postpone the examination of the representative of the Hamilton Chamber of Commerce until to-morrow morning. He says he can be here quite easily. Then there is Mr. Goodman, executive and secretary manager of the Automotive Transport Association of Ontario. I do not suppose he wants to be heard after the full and complete report given by Mr. Duncan. Or does he desire to be heard just the same?

Mr. GOODMAN: My name is Goodman, and our brief has been completed by Mr. Duncan. We have nothing further to add.

The DEPUTY CHAIRMAN: Thank you. We may as well go on with the representative of the Hamilton Chamber of Commerce then. There is nobody else. His brief is rather short, he says; I hope so. Every member has a copy of it.

J. G. SAUNDERS, Hamilton Chamber of Commerce, Hamilton, called.

The WITNESS: Mr. Chairman, we have a brief here covering our submissions on the House of Commons Bill No. 31 which we would like to submit for your consideration.

CHAIRMAN AND MEMBERS,

Committee on Railways, Canals and Telegraph Lines,  
House of Commons,  
Ottawa, Ontario.

GENTLEMEN,—The Hamilton Chamber of Commerce desires to refer to "The House of Commons of Canada Bill 31"—"An Act to establish a Board of Transport Commissioners for Canada, with authority in respect to Transport by Railways, Ships and Aircraft," which was presented to Parliament for its first reading on March 1, 1938, and after second reading on March 23, 1938, we understand was referred to the Standing Committee on Railways, Canals and Telegraph Lines for consideration.

After due study of the Proposed Bill 31, we recommend for your consideration that the following changes, corrections or eliminations should be made in in this Bill as hereinafter related:—

We would suggest that a preamble be added to this Bill reading as follows:—

It is hereby declared to be the policy to promote, encourage and regulate all forms of transportation in such a manner as to develop and maintain sound economic conditions among all such carriers; provide adequate, economical and efficient transportation service; improve the relations between all carriers; secure co-ordination between all forms of transportation, and foster and preserve, in the public interest, a transportation system properly adapted to the needs of the commerce of Canada.

[Mr. J. G. Saunders.]

We are of the opinion that the users of transportation facilities in Canada generally are in favour of fair and reasonable regulation of transportation where possible.

*Referring to Part I—"The Board of Transport Commissioners for Canada"*—Section 3 indicates that the Board of Railway Commissioners for Canada will be changed to "The Board of Transport Commissioners for Canada." We would suggest that if it is the intention of changing or adding to the personnel of the "Board" consideration should be given to the appointment of persons conversant with the types of transportation to be regulated under this Bill.

*Referring to Part II—Transport by Water*

1. Intercoastal traffic operating between the Great Lakes, St. Lawrence and Atlantic ports on the one hand and Pacific coast ports on the other via the Panama canal has proven to be an essential service in marketing of goods between points in the east of Canada and points on the Pacific coast. The regulation proposed in this bill would seriously handicap these services in meeting competition of United Kingdom and foreign transportation facilities. We are opposed to this traffic being regulated to the apparent detriment of Canadian shippers in competing with trade from United Kingdom and foreign countries inasmuch as this trade is carried from United Kingdom and foreign countries on unregulated ships.

In our opinion the proposed regulation of this intercoastal service would not result in the return of this traffic to Canadian railways, but would undoubtedly mean the loss of the business to Canadian industry, as advertising the vessel rates Canadian industry would be required to pay for these intercoastal services would simply disclose to these United Kingdom and foreign competitors the prices they would have to meet, particularly having in mind the fact that there are many of these United Kingdom and foreign vessels returning to British Columbia ports light for cargo which are available for the carriage of inbound shipments at extremely low rates.

2. Under the interpretation as shown in section 2, page 1, part (e) of the proposed bill "Goods in bulk" means the following—goods laden or freighted in ships and not bundled or enclosed in bags, bales, boxes, cases, casks, crates or any other container; grain, ores and minerals (crude, screened, sized, refined, or concentrated, but not otherwise processed), sand, stone, and gravel, coal and coke, liquids, pulpwood, poles and logs. We would point out, however, that there are other commodities shipped in bundles or in packages using the full cargo space of ships or full boat-loads that should be given the same consideration as "goods in bulk," and we would suggest that this be defined in the interpretation referred to above and should also be given the same consideration as "goods in bulk" as named in part II, section 12, subsection (4), as named on page 6.

Mr. Chairman, I might digress here for a moment and say that one commodity we have in mind is rubber. The reason I mentioned that is that in the proceedings I notice that in the presentation by Mr. G. P. Campbell on May 6 rubber was not mentioned.

*Referring to Part IV—Traffic, Tolls and Tariffs*

As per section 31, page 11 of this part, the Board may make regulations permitting the issuance of special rate notices prescribing tolls lower than the tolls regularly in force. We strongly urge that these special rate notices be made available to the public in a similar manner as at present required in connection with freight tariffs. We also suggest similar action with respect to special rate notices as authorized in section 344 of the Railway Act.

We also desire to submit for your consideration that some provision should be made in this bill and also by amendment to the Railway Act whereby the



Transport Board should be given the necessary power, in cases where it is found that shippers or receivers of freight have been overcharged or damaged by discriminatory, unjust or unreasonable charges or tolls, to award reparation for such damage.

In this connection we would point out that in the United States under the Interstate Commerce Act, Section 16, the Interstate Commerce Commission has had this authority for many years and we believe that the shippers and receivers of freight in Canada should be placed on a similar basis.

We would further strongly urge that your Committee give some consideration to amend this bill and the Railway Act accordingly.

*Referring to Part V—"Agreed Charges"*

That we are opposed to this part covering "agreed charges" in its entirety and feel that it should be deleted from this bill for the following reasons:—

1. Apparently this originated in the Road and Rail Traffic Act of 1933 of Great Britain where transportation is performed under entirely different conditions than applicable in Canada and from what we have been able to learn is not receiving the support of the users of transportation in that country.

2. Prior to the Railway Act of 1904 similar conditions as "agreed charges" existed and we feel that any attempt to introduce "agreed charges" legislation at this time is a retrograde step and not in the best interests of the public, especially as the Railway Act has worked successfully for so many years.

3. The Hamilton Chamber of Commerce, together with other organizations, has attempted for a number of years to have highway transport operators in Ontario regulated and tariffs filed and we believe that before very long regulation in Ontario will be effective. It is admitted by rail carriers that the principal reason for agreed charges is that it will enable them to meet unregulated highway transportation. If all forms of transportation are reasonably regulated it will place rail carriers on an equality which is something they have advocated for years and makes unnecessary any such proposal as agreed charges, which would give the rail lines an undue advantage not possessed by other forms of transportation.

Might I digress for a moment again. I have here a copy of our submission to the Chevrier Royal Commission in Toronto bearing out that fact, and asking for regulation of transport in Ontario.

Mr. O'NEILL: I would like to get the witness to enlarge a little on that last part—"which would give the rail lines an undue advantage not possessed by other forms of transportation".

Mr. BERTRAND: But the facts show the contrary. The other carriers have all the facilities.

The WITNESS: Well, Mr. Chairman, I might answer that in this way, that we do not believe that the principle of agreed charges is proper, and we believe that it would give the railways an undue advantage if they can meet, at least if they can have agreed charges in effect that will be contrary to the other methods of transportation.

Mr. O'NEILL: You say it would give them an undue advantage not possessed by other forms of transportation. That is exactly what is the matter. Agreed charges do exist now with all forms of transportation, only they are not published and no shipper has any way of finding out what the other shipper is paying.

Mr. BERTRAND: Except the railways.

Mr. O'NEILL: If you had agreed charges with the railways, then the railways would have to publish the agreed charges and any other shipper, under similar conditions, would have a right to demand the same charges.

The WITNESS: We contend that the agreed charges is not a proper step. In other words, we are endeavouring to have other forms of transportation

[Mr. J. G. Saunders.]

regulated and file tariffs; and if they are made public to everybody, everybody knows what their competition is.

Mr. O'NEILL: I think this brief should not read that way—"which would give the rail lines undue advantage not possessed by other forms of transportation." I object to that absolutely, because it is not in accordance with the facts.

*By Mr. Hamilton:*

Q. They possess it at the present time, do they not?—A. Which?

Q. They possess the same advantage at the present time? The truckers can make agreed charges, can they not?—A. They can, sir.

Q. Yes; but you are anticipating that if certain regulations or certain legislation went through in Ontario, they would be able to be regulated.—A. If they are regulated, we believe it will put them on a proper basis, by the publication of tariffs.

Q. They are not regulated up to the present time?—A. No. But we hope that they will be. That is what our submission is, that we have been endeavouring for a number of years to have them regulated; and if they are regulated, it will offset the necessity of putting in agreed charges.

*By Mr. McKinnon (Kenora-Rainy River):*

Q. They will not even agree among themselves to regulation, will they—the truckers?—A. Well, we hope that some regulation will be set up whereby they will have to come to some form of regulation.

*By Mr. Maybank:*

Q. This parliament, you know, cannot regulate them.—A. No; but we are working with the Ontario government endeavouring to have them regulated, which I think is the proper step, to have them all put under proper regulation, which will offset the necessity for agreed charges.

*By Mr. Bertrand:*

Q. The government may be only too glad to drop this, if, as and when you succeed in getting the provinces to regulate their tariffs.—A. We are working to that end.

The DEPUTY CHAIRMAN: All right, go ahead, Mr. Saunders.

The WITNESS: Continuing:

4. Section 498A of the Criminal Code reads as follows:—

"(1) Every person engaged in trade or commerce or industry is guilty of an indictable offence and liable to a penalty not exceeding one thousand dollars or to one month's imprisonment, or if a corporation to a penalty not exceeding five thousand dollars, who

(a) is a party or privy to, or assists to, any transaction of sale which discriminates to his knowledge, against competitors of the purchaser in that any discount, rebate or allowance is granted to the purchaser over and above any discount, rebate or allowance available at the time of such transaction to the aforesaid competitors in respect of a sale of goods of like quality and quantity.

The agreed charges as proposed are in direct conflict with the Criminal Code; although this Bill makes provision that the terms of any other Act which conflict with it are over-ridden we submit that it is inconsistent to permit under this Bill a practice which has been definitely forbidden in the Criminal Code to apply in connection with other trades or businesses.

*By Mr. Young:*

Q. Well, is that a fact?—A. As I understand it, under that section of the Criminal Code, it is not allowed.



Q. What—discount, rebates or allowances? Where is discount, rebate or allowance under Bill 31?—A. Well, agreed charges.

Q. Mr. Chairman, I do not really think that the witness understands the real principle of agreed charges. This has to be done in the open. It has to be public, has to be given the widest possible publication. Where does this conflict that you are suggesting in that paragraph come about?—A. We consider that with agreed charges, it might be possible to give them a rebate from the regular rate.

Q. You are entirely wrong. That is what I am suggesting, that apparently you do not understand the meaning of this clause in the bill.—A. Well, that is the interpretation—I am not a lawyer—but the interpretation we received was that that was in direct conflict with the agreed charge section.

*By Mr. O'Neill:*

Q. You have no way of knowing that there is not a rebate given now on freight charges?—A. You mean with respect to the railways?

Q. Yes. If you put the gun on agreed charges, it can be done right now.—A. But we feel that the coming in to the Board of Railway Commissioners pretty well controls that for the railways. Continuing:

*Harbour Tolls*

We strongly urge that another part be added to Transport Bill 31 covering harbour tolls, similar to part 5 "Harbour Tolls", sections 19, 20 and 21, pages 9 and 10, of defeated Senate of Canada Bill "B" with the exception that all matters pertaining to harbour tolls as referred to therein should come under the jurisdiction and authority of the Board of Transport Commissioners and not that of the Minister."

I may say, Mr. Chairman, we are not saying anything derogatory to the Minister. The reason we refer to that is section 20 and 21 of Bill "B" of the Senate of Canada said:—

"If the board, after inquiry, as hereinbefore provided is of opinion that any harbour tolls should be amended or rescinded or other harbour tolls substituted therefor, it shall be the duty of the board to forward with its report a recommendation to the Minister for such action as he deems fit.

21. This part shall not come into force until proclaimed as in force by the Governor in Council."

We feel, Mr. Chairman, that harbour tolls with respect to charges and the publishing of tariffs and so forth should come under the Board of Railway Commissioners, the same as the railways to-day.

*By the Deputy Chairman:*

Q. May I ask Mr. Saunders, if you have prepared any special amendements covering the points that you have raised?—A. Nothing further except the harbour tolls.

Q. You do not want to do it?—A. Yes, we would like to do it.

Q. You are accorded the same privilege that we accorded to the others. You can prepare your amendements and file them with the clerk and they will be considered with the rest when the committee sits. Is that all?—A. Can we supply them later?

Q. Certainly. File them with the clerk in the morning, if you like.

*By Mr. Howden:*

Q. I should like to ask the witness to state in a sentence or two his chief objection to the passing of this bill.—A. You mean, sir, with regard to—

Q. Just in about ten or fifteen words tell us why you do not want the bill to pass. What is your outstanding objection to it?—A. The only thing [Mr. J. G. Saunders.]

that we take objection to is the agreed charges. Under the Railway Act to-day a rate is published and filed and all shippers get the benefit of that rate from a given point to a given point over a defined route. We contend that agreed charges, under the reading or interpretation that we take from the section, the smaller shipper—

Q. You are taking the attitude that the agreed charge will be a secret charge?—A. No, not altogether. I was just going to explain that. Sub-section 5 of section 35 of the bill states:—

Being the same goods as or similar goods to and being offered for carriage under substantially similar circumstances and conditions as the goods to which the agreed charge relates—

Q. If this agreed charge is not a secret charge, and if it is published then the small shipper will have a perfect right to appeal to the Board of Transport Commissioners and to demand the same rates and the representative of the Board of Railway Commissioners the other day indicated he would be given the same rate.—A. That is quite true, but can he ship under substantially similar conditions? To-day the small shipper gets the same benefit as the larger shipper.

*By the Deputy Chairman:*

Q. That will be done by regulation of the board.—A. That may be, but we have to take it as it reads.

Q. No, the bill itself provides for regulation.—A. It provides for regulation, but it does not say that the small shipper will get the same rate as the large shipper, because he may not be able to ship under substantially the same conditions.

Q. Surely the Board of Railway Commissioners will be able to deal with things of that kind?—A. Yes, but the Board of Railway Commissioners applies the rate from point to point.

*By Mr. Tomlinson:*

Q. He definitely would not get the same rate as, say, Eatons or Loblaws.

The DEPUTY CHAIRMAN: That depends on the decision of the railway board.

Mr. JOHNSTON: Similar conditions would come up.

The DEPUTY CHAIRMAN: How can you embody that in the Act otherwise?

Mr. JOHNSTON: How are you going to apply these regulations; you cannot do it.

Mr. ISNOR: Why not?

Mr. HOWDEN: We were given an instance where a totally different circumstance or condition came in, and exactly the same rate was applied for.

Mr. JOHNSTON: You have to take the wording of the bill there.

Mr. HOWDEN: This whole matter is subject to the Board of Transport Commissioners.

Mr. JOHNSTON: As explained, these small truckers would not have a chance to come before this board. They do not even have a representative.

Mr. HOWDEN: We were told by the chairman of the Board of Railway Commissioners they would have the opportunity to come before them, and that they would not even have to come before them; all they would have to do would be to write a letter and the same rate would be accorded them.

Mr. JOHNSTON: It should be so stated in the bill.

The WITNESS: From my interpretation of the bill the small shipper may be hurt under those agreed charges. We take decided objection to it being included in the bill.

Mr. O'NEILL: It is quite possible it would hurt the small shipper right now. The large shipper can agree with a trucking company to take his goods from a



certain point to a certain point at a certain rate. Nobody knows anything about that rate excepting the transportation company and the shipper, and he may be doing that for less than he would carry the goods of a smaller shipper, because of the fact that the larger shipper has a greater volume of goods to handle, and it is in their own interest to do it that way. This agreed charge is something that will not prohibit that.

Mr. BROWN: All the shippers in the country are opposed to the agreed charges.

Mr. HOWDEN: Because they are under a misapprehension.

Mr. BROWN: They must know their own business.

Mr. JOHNSTON: It is a well-founded misapprehension, then.

The WITNESS: We contend under the agreed charges that the application of them as applying to the railways is not a step in the right direction. In other words we are endeavouring to get the trucks regulated, which will put them on the same basis of a published tariff as the railways, and the railways will be able to meet them or vice versa.

*By Mr. Howden.*

Q. In the meantime, you people representing the trucks submit whatever charges you like and can operate, and the railways are helpless to compete because they do not know what your charges are.—A. Mr. Chairman, we do not represent the trucks.

The DEPUTY CHAIRMAN: He represents the Chamber of Commerce.

The WITNESS: We are shippers, sir.

The DEPUTY CHAIRMAN: Thank you very much.

Mr. JOHNSTON: He is talking from a very impartial standpoint.

The DEPUTY CHAIRMAN: Gentlemen, we still have two Chambers of Commerce who want to be heard, the Montreal Board of Trade and the Toronto Board of Trade. Is there anybody here representing the Toronto Board of Trade?

Mr. T. MARSHALL, representing the Toronto Board of Trade, called.

The WITNESS:

The Council of The Board of Trade of the City of Toronto, with the assistance of its interested Committees and Trade Branches, has carefully studied House of Commons Bill No. 31, "An Act to Establish a Board of Transport Commissioners for Canada, with authority in respect of transport by railways, ships and aircraft," and desires to submit the following comment with regard thereto.

Stability of the rates charged for the carriage of goods is considered by this Board to be an essential factor in all forms of transport. This Board strongly advocated the passing of the Railway Act and the appointment of the Board of Railway Commissioners to administer it. One of the main reasons for doing so was that prior to the enactment of the Railway Act in 1903 there was no stability in transportation rates and services and chaotic conditions prevailed. The enforcement of the Act since that date has removed these undesirable conditions with material benefit to both railways and shippers.

## *Part II—Transport by Water*

This Board has no objection to the control of water carriers proposed in this Part.

## *Part III—Transport by Air*

This Board has no objection to the control proposed of air services operating on regular schedules between fixed termini, but is of the opinion that  
[Mr. J. G. Saunders.]

exemption should be made in the application of the provisions of the Act to the air transport lines serving and promoting the development of the northern districts throughout the country, and while subsection (b) of section 15 and section 2 of the same section seems to contemplate, on the recommendation of the Board of Transport Commissioners, some relief for these irregular services, we would respectfully recommend that these northern services be definitely excluded from the provisions of the Act.

#### *Part IV—Traffic Tolls and Tariffs*

The regulations proposed in this part as to the issuance and filing of tariffs, etc., being largely drawn from the provisions of the railway Act, have the endorsement of this Board.

#### *Part V—Agreed Charges*

This Part provides for the making of agreements or contracts between traders and carriers for the transport of any class of goods at rates other than those published in the tariffs of tolls, which under the Railway Act are the legal rates to be charged, provided such contracts receive the approval of the Board of Transport Commissioners. In the opinion of this Board such a procedure in the making of rates would be a retrograde step. It would be contrary to the principle of the Railway Act for which shippers fought for many years prior to its adoption in 1903 and which has since stood the test of time, and would be a return to the former wholly undesirable state of confusion and uncertainty on the part of shippers and unwarranted discrimination as between shippers of similar commodities. *In the interests of the stabilization of rates and equity as between shippers, it is strongly recommended that this Part of the Bill be deleted.*

Mr. Chairman, I would like with your permission to make one short observation. This is perhaps a personal one, and you may take it for what it is worth. There is nothing in Part 5, as I read it, that provides for any publicity to be given to the terms of these special agreements. I submit that it is necessary for shippers of similar commodities seeking trade in competitive markets that they have some idea as to what their competitor is paying. I, personally, have not so much to say with regard to the method of making rates. There is no doubt that perhaps rates are made to-day by the railways which might be termed "agreed rates." Many of these rates are made to meet motor competition between shippers of certain commodities in certain places. But they are published; we know what they are, and the competitors of these men know what they are and what they have to meet.

I observe that in sub-section 11 of section 37 of the English Road and Rail Traffic Act of 1933 it contains these provisions:—

Sub-section 11: The provisions of section 54 of The Railways Act, 1921 (which relates to the publication of schedules of standard charges, etc.) and, in the case of a light railway company, the enactments relating to the publication of rates, shall not apply in relation to charges approved or fixed under this section, but where the Tribunal approves or fixes a charge, or continues its approval of a charge, or withdraws an approval previously given to a charge, the decision of the Tribunal, and also where the Tribunal approves or fixes a charge or continues its approval of a charge subject to modifications, particulars of that charge, including the conditions attaching thereto, or, as the case may be, particulars of the modifications, shall be reported by the railway company concerned to the Minister within fourteen days after the decision of the Tribunal, or such longer period as the Minister may allow, and all such charges and the conditions attaching thereto shall be recorded in such



manner, and be open to inspection by any person without payment at such places and times, as the Tribunal may direct.

There should be some method, gentlemen, if section 5 is adopted, of giving publicity to the terms of these agreed charges. I do not say it would be practicable to publish tariffs as the tariffs are to-day, but I think they should be readily acceptable to the public so that men may get them readily and know what they are. If that can be done, I think it would ease the situation very materially, at least so far as I am personally concerned, with regard to the objections to these agreed charges. We should know what they are.

*By the Deputy Chairman:*

Q. Is that all, Mr. Marshall?—A. Yes.

The DEPUTY CHAIRMAN: Gentlemen, the clerk has distributed a memorandum prepared by the board of trade of Montreal. Their representative is not here. Have you any objection to this being placed in the record as their submission?

Some Hon. MEMBERS: No.

## THE MONTREAL BOARD OF TRADE

MONTREAL

*Resolution Adopted by the Council of the Montreal Board  
of Trade at its Meeting Held 14th April, 1938  
House of Commons Bill No. 31*

Whereas, the Council of the Montreal Board of Trade has always opposed Government control of private enterprise, or any legislation tending towards legalizing monopoly,—

Whereas Bill No. 31, insofar as it purports to licence water carriers for the purpose of controlling their movements between ports in Canada, would be unworkable and against the best interests not only of shippers, but also of the water carriers themselves,—

Whereas the said Bill, insofar as it permits the making of agreed charges in respect to competition between carriers, which would be regulated by the Bill, is retrograde and against the public interest,—

Therefore Resolved,—That the Council of the Montreal Board of Trade urges that all the provisions of Bill No. 31, purporting to give to the Minister or the Board of Transport Commissioners the right to control the movements of water carriers which are to be regulated under the said Bill, be eliminated,—

That agreed charges should be limited in their application to competition from unregulated carriers who would be competing either alone or in combination with regulated carriers,—

That the interests of small shippers should be protected by appropriate changes in Part V of the Bill, to provide against possible discrimination in favour of large shippers.

Certified a true copy

J. STANLEY COOK,  
*Secretary.*

The DEPUTY CHAIRMAN: Gentlemen, we will conclude now and meet at 10.30 o'clock in the morning.

(At 6 p.m. the committee adjourned until Friday, May 13, 1938, at 10.30 a.m.)

## APPENDIX

BEAUREGARD, PHILLIMORE &amp; ST. GERMAIN,

ADVOCATES,

GUARDIAN BUILDING,

240 St. James Street, W.

MONTREAL, 25th April, 1938.

*The Clerk of the Committee on Transportation Bill 31, Ottawa, Canada*  
*Re: Bill 31*

Dear SIR,—We have received instructions from our clients, the Ellis Shipping Company Limited, to make certain representations on its behalf to be submitted to the Committee which will consider the bill, as we understand, on the 28th instant.

The Ellis Shipping Company Limited is the owner of two motor vessels, namely, the *Gaspé County*, of a gross tonnage of five hundred and seventy-five tons, and the *Pictou County* of a gross tonnage of seven hundred and seven tons.

The President and Manager is Mr. H. A. Ellis of Montreal, who for thirty years has been a pioneer of navigation along the Gaspé coast.

1904 Mr. Ellis operated three sailing schooners carrying lumber up to Montreal from the Gaspé coast and bringing down supplies for the Sherbrooke Lumber Company which operated a large lumber mill at Barashois, Gaspé County, and other local mills and merchants.

The Sherbrooke Lumber Company sold out in 1921, and Mr. Ellis then built a motor vessel at Barashois of a tonnage of four hundred tons and kept up the freighting, going as far as Campbellton, N.B., and later as the business increased he sold the motor vessel and bought the two above steel motor vessels.

The *Gaspé County* is kept continually in service along the Gaspé Coast, making twenty-two calls from Fox River into the Bay des Chaleurs to Dalhousie and Campbellton.

The *Pictou County* helps out along the same run, when the amount of freight warrants it, and also goes to Pictou, Prince Edward Island, Halifax and Sydney.

Being associated with the Gaspé people for thirty years, or more, our client knows the conditions better than most persons in this Province, and he has always done his utmost to solve their difficulties and to help them in bringing in all the necessities and to ship out their produce, lumber, fish, etc.

For the last few years the operations of the two above mentioned vessels were not profitable, and no dividends have been paid for a number of years. However, last year things improved quite a bit, as there was a little lumber moving, and the Chandler Mill which had been shut down for seven years opened up, giving employment and purchasing lumber, which helped the merchants and people all along the coast.

Since last fall, however, things have changed again, as lumber prices fell off and the Chandler Mill cut its operations to three days, while other mills are all working on limited time.

Our clients further feel that owing to present conditions and the uncertainties of the future it is not an appropriate time to make any drastic changes and regulations which are bound to make conditions worse for themselves and the people whom they serve. Moreover, they feel that if the present bill was passed and a tariff fixed for transportation of goods and passengers on the Gaspé coast, this will cause the ruin of the Company and deprive Mr. Ellis of the fruit of all his work during the last thirty years for the following reason.



According to Clause "H" of Section Two of the Act, vessels under one hundred and fifty gross tons are excluded from the Act, and we are informed that it is intended to increase this exclusion to vessels of three hundred tons or even more. The result of this exclusion will be that a rate may be fixed for the shipping of goods and the transportation of passengers on board the vessels of our clients, while the owners of small vessels of one hundred and fifty tons or of three hundred tons—if the exclusion is increased—will be allowed to transport goods and passengers at such rates as they may fix and therefore prevent our clients from doing any business. All they would need to do would be to fix a rate which would be below the rate fixed by the Board of Transport which will force our clients out of business almost immediately.

We consider that this would constitute an unfair discrimination which would be unjust to our clients, who, as we stated before, were pioneers in navigation along the Gaspé Coast.

In fairness to everybody, if control is to be exercised, it should be made general and include vessels of all types and tonnage operating on any service in any trade whatsoever within the territory which comes under the control of the Board, so that everybody will be on an equal basis and there would be no means of anybody taking advantage of the other on account of one being under rate control and the other exempt.

As you are probably aware, most of the vessels engaged in the coasting trade along the coast of the St. Lawrence River are small vessels or schooners of a tonnage varying between three hundred to fifty tons and outside of the two vessels owned by our clients there are perhaps only two or three which have a tonnage above five hundred tons, and they would be the vessels which would be put out of operation if the bill were to be adopted in its present form.

If the Members of the Committee were to insist upon the exclusion of a certain class of vessels, this exclusion should either be increased to exclude the vessels of our client or should be decreased to vessels of a very small tonnage so as to have almost everybody on the same footing.

As another variant, may we suggest that Clause Five of Section 12, Part 2, be amended, substituting for the words "East of Father Point," the words "East of Montreal."

We note that the Provinces of British Columbia, Nova Scotia, New Brunswick and Prince Edward Island are excluded and we do not see any reason why the Province of Quebec should not also be excluded up to Montreal.

We understand that the object of the bill is to regulate the traffic on the Great Lakes and the Western Provinces, and, as Montreal is a terminal point, we do not see why Montreal should not be substituted for Father Point, as there is no traffic to speak of from east of Father Point.

As our client has a right to live and to continue its operations and as he has in the past and is still rendering an immense service to the people of Gaspé, and particularly to the ports of call which are not served by any railroad, and as no discrimination should be had, we confidently believe that the Members of the Committee will give serious consideration to the representations of our client and will amend the Act in such manner as to give them full justice.

Yours very truly,

BEAUREGARD, PHILLIMORE & ST. GERMAIN.

LB/ML:

